

Cir. 1985). Without such showing, summary judgment must be entered in favor of a defendant. *Blackston v. Johns-Manville Co.*, 764 F.2d 1480 (11th Cir. 1985); *Odum v. Celotex Corp.*, 764 F.2d 1486 (4th Cir. 1985); *Lee v. Celotex Corp.*, 764 F.2d 1489 (4th Cir. 1985).

**i. AC&S's Role as a Supplier**

In the instant case, there is no evidence that AC&S supplied asbestos-containing products to Mr. Webbes's home construction sites. Indeed, Mr. Smith testified that he never saw AC&S boxes at the home construction sites, and the asbestos-containing products he remembers seeing at the home construction sites are products that AC&S was not in the business of supplying. (Deposition of Pete Smith, March 17, 2002, pp. 43/10-44/5). Nancy's theory of exposure to asbestos-containing products supplied by AC&S therefore rests on the assumption that Mr. Webbe was exposed to asbestos-containing products that AC&S supplied to the DuPont-Chattanooga facility, and that Mr. Webbe's exposure at DuPont-Chattanooga subsequently led to Nancy's exposure through the same asbestos-containing dust on Mr. Webbe's work clothes.

The record shows that AC&S boxes were present at the DuPont-Chattanooga facility sometime between 1965 and 1970. (*Id.* at pp. 41/17-42/4). Mr. Smith asserts that the boxes contained insulation, but the record is silent as to whether the boxes contained non-asbestos-containing insulation or asbestos-containing insulation. *Id.* Moreover, the record does not indicate whether Mr. Smith ever saw the boxes opened, nor whether he ever saw products taken out of the boxes. Lastly, there is no testimony that places Mr. Webbe in proximity to products removed from the AC&S boxes. Based on these facts, Plaintiff cannot affirmatively show that Mr. Webbe was exposed to products that AC&S supplied. Even if Plaintiff could affirmatively show that Mr. Webbe was exposed to products taken from these AC&S boxes, Plaintiff cannot affirmatively show that the boxes contained asbestos-containing products.

Indeed, the record shows that AC&S was in the business of supplying and installing non-asbestos-containing insulation products at facilities such as DuPont, *see* Exhibit E; Exhibit F, and Mr. Webbe admitted that DuPont-Chattanooga regularly used non-asbestos containing products. (Deposition of Bill Webbe, January 18, 1998, p. 15/9-14). While there is evidence that AC&S supplied DuPont with a shipment of Thermobestos in 1968 and a shipment of Unibestos sometime before February 12, 1973, this falls short of affirmative evidence. *See* Exhibit C; Exhibit D. Blackacre law requires the Plaintiff to produce affirmative evidence of exposure to asbestos-containing products to survive summary judgment. *Blackston v. Johns-Manville*, 764 F.2d 1480, 1485 (11th Cir. 1985). Mr. Smith did not testify that he saw Thermobestos or Unibestos products in the AC&S boxes, nor that he saw Mr. Webbe working with or around Thermobestos or Unibestos removed from the AC&S boxes. The Thermobestos and Unibestos that we supplied could have been used at a completely different part of the facility from where Mr. Webbe was working, or they might not have been used at all.

**ii. AC&S's Role as a Contractor**

There is no evidence that AC&S was ever contracted to install asbestos-containing products at Mr. Webbe's home construction sites. Indeed, Mr. Smith testified that he never saw AC&S workers at the home construction sites, and the asbestos-containing products he remembers seeing at the home construction sites are products that AC&S was not in the business of installing. (Deposition of Pete Smith, March 17, 2002, pp. 43/10-44/5). Nancy's theory of exposure to asbestos-containing products installed by AC&S therefore requires the assumption that Mr. Webbe was exposed to asbestos-containing products that AC&S installed at the DuPont-Chattanooga facility, and that Mr. Webbe's exposure at DuPont-Chattanooga subsequently led to Nancy's exposure through the same asbestos-containing dust on Mr. Webbe's work clothes.

The record shows that AC&S performed, at the most, three insulation contracting jobs at the DuPont-Chattanooga facility while Mr. Webbe was working at the facility.<sup>11</sup> The first was performed sometime between August 21, 1956 and September 24, 1956, where AC&S installed Thermobestos in the Number One Boiler room. *See* Exhibit A; Exhibit B. Mr. Webbe was working as an insulator when this contracting job was performed. (Deposition of Bill Webbe, January 18, 1998, p. 11/4-17). Second, there is evidence that AC&S performed one contracting job in the early to mid-1960's. (*Id.* at p. 12/4-8). Mr. Webbe was working as an insulation supervisor during this job. (*Id.* at p. 11/4-17). Third, there is evidence that AC&S performed one contracting job between 1965 and 1970. (Deposition of Pete Smith, March 17, 2002, pp. 38/8-13, 121/2-8). Mr. Webbe was also working as an insulation supervisor during this job. (Deposition of Bill Webbe, January 18, 1998, p. 11/4-17).

In the first instance, there is no evidence that Mr. Webbe worked in proximity to the insulation job AC&S performed in the Number One Boiler room in 1956. On the contrary, Mr. Webbe testified that DuPont's internal insulators did not work with the external insulators when DuPont hired outside insulation contractors, and Mr. Webbe was in fact working as one of DuPont's internal insulators during this contracting job. (*Id.* at pp. 11/26-12/2, 11/4-17). Further, Nancy was not doing the family laundry at this time, which Plaintiff contends was her primary source of exposure to asbestos-containing dust from DuPont-Chattanooga. (Deposition of Nancy Costeloe, July 17, 2001, pp. 12/26-27, 14/2).

Second, there is no affirmative evidence that Mr. Webbe worked in proximity to asbestos-containing products during the contracting job AC&S performed in the early to mid-1960's. While

---

<sup>11</sup> The record is ambiguous as to whether the contracting jobs AC&S performed as identified by the deposition of Mr. Webbe and Mr. Smith were two separate occasions or the same occasion. However, in the light most favorable to Plaintiff, AC&S assumes *arguendo* that the jobs were performed on two separate occasions.

Mr. Webbe acknowledges that he sometimes checked on their work, he only saw AC&S using non-asbestos-containing insulation products such as foam glass and rubber. (*Id.* at 12/14-18, 12/24-29). He saw boxes of Johns-Manville Thermobestos in AC&S's storeroom, but he doesn't know if it was used. (*Id.* at p. 12/29-31). Once again, evidence of boxes being present, without more, falls short of affirmative evidence under Blackacre law. Mr. Webbe testified that he and the other insulators had to replace the materials that AC&S installed, yet he doesn't recall if Thermobestos was used despite having to remove the materials. (*Id.* at p. 12/19-22, 12/29-31). Furthermore, the record is vague as to when this installation job occurred, but if it occurred before 1966, then Nancy was not doing the family laundry at this time. (Deposition of Nancy Costeloe, July 17, 2001, pp. 12/26-27, 14/2).

Third, there is no affirmative evidence that Mr. Webbe worked in proximity to asbestos-containing products during the contracting job that AC&S performed between 1965 and 1970. Mr. Smith testified that, every day during this contracting job, Mr. Webbe would go over to the side of the facility that AC&S was working on to check on their work. (Deposition of Pete Smith, March 17, 2002, p. 87/7-12, 87/14-19). However, Mr. Smith worked on a different side of the facility from the AC&S contracting job, so there's no testimony indicating how close Mr. Webbe was to the AC&S workers. (*Id.* at pp. 37/17-38/2, 87/1-5). Mr. Smith also testified that he and the other insulators had to remove the insulation that AC&S installed. (*Id.* at pp. 122/10-15, 124/23-125/8). However, there is no testimony that Mr. Webbe accompanied these insulators when Mr. Smith and the other insulators had to remove the insulation that AC&S installed. Once again, the record is vague as to when this installation job occurred, but if it occurred before 1966, then Nancy was not doing the family laundry at this time. (Deposition of Nancy Costeloe, July 17, 2001, pp. 12/26-27, 14/2).

**C. Assuming Proximity is Established, The Plaintiff Offers No Evidence of Frequency or Regularity of Exposure to AC&S's Asbestos-Containing Product.**

Even assuming that the Court finds that the Plaintiff offered affirmative evidence that Nancy was somehow exposed to one of AC&S's asbestos-containing products, Plaintiff must prove more than just a mere minimum exposure. Because legal causation requires that a defendant's conduct be a substantial factor in causing harm, the Fourth Circuit Court of Appeals, in *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156 (4<sup>th</sup> Cir. 1986), established a test to evaluate the sufficiency of the evidence of exposure. *Id.* at 1162 (applying Blackacre substantive law). This test for asbestos cases, the "frequency, regularity, and proximity" test, incorporates Blackston's proximity test, *see supra*, and looks not only to the mere inference of exposure, but to the frequency and regularity of the exposure to ensure that the defendant's conduct was a substantial factor in causing harm, i.e., the legal cause. "In effect, this is a *de minimis* rule because the plaintiff must prove more than just a casual or minimum contact with the product." *Id.*

This test was necessitated by arguments that a jury question is created if the plaintiff only presents evidence that a defendant's asbestos-containing product was at the work site at the same time the plaintiff was at the work site. *Id.* Given the tremendous size of the workplace of a typical asbestos plaintiff (*e.g.*, shipyards, manufacturing plants), and the great number of products used over time in those workplaces, the extent and nature of the exposure has to be evaluated to determine whether it is sufficient to establish proximate causation. *See Id.* Thus, to defeat summary judgment, the plaintiff must offer "evidence of exposure to a specific product on a regular basis over some extended period of time in proximity to where the plaintiff actually worked." *Id.* at 1162-63.

**i. AC&S's Role as a Supplier**

Assuming *arguendo* that the Court finds that Plaintiff offered evidence that Mr. Webbe was exposed to asbestos-containing products that AC&S supplied to DuPont-Chattanooga, and that Nancy was subsequently exposed to the same asbestos-containing dust on Mr. Webbe's work clothes, there is no evidence that such exposure was more than *de minimis*. In particular, there is no testimony that Mr. Webbe worked around products removed from the AC&S boxes that Mr. Smith identified as being present at DuPont-Chattanooga sometime between 1965 and 1970. Similarly, even if these boxes contained a shipment of Thermobestos or Unibestos, there is no evidence indicating how frequently or how long Mr. Webbe would have worked around such products.

Plaintiff may urge the Court to make the inference that Mr. Webbe was exposed to these products with sufficient frequency and regularity because Mr. Smith testified that Mr. Webbe moved around the plant to watch the insulators and make sure they were doing their job. (Deposition of Pete Smith, March 17, 2002, pp. 8/21-9/11). However, such an inference strains credulity because this testimony indicates neither how frequently Mr. Webbe would have been exposed to a particular product supplied by AC&S nor how long it would take for DuPont's insulators to install a product that AC&S supplied. On the contrary, Mr. Webbe testified that DuPont's internal insulators only handled small repair and insulation jobs. (Deposition of Bill Webbe, January 18, 1998, pp. 11/26-12/2). Assuming AC&S only supplied one shipment of Thermobestos and one shipment of Unibestos as evidenced by the record, this supports a stronger inference that Mr. Webbe would not have been exposed to a product supplied by AC&S with the requisite frequency and regularity to constitute more than *de minimis* exposure. *See Lohrmann v.*

*Pittsburgh Corning Corp.*, 782 F.2d 1156, 4 (4<sup>th</sup> Cir. 1986) (even thirty days of exposure, more or less, is insignificant as a causal factor for asbestos-related illness).

It follows that if Mr. Webbe was not exposed to an asbestos-containing product that AC&S supplied to DuPont-Chattanooga with sufficient frequency and regularity to show more than *de minimis* exposure, neither was Nancy.

**ii. AC&S's Role as a Contractor**

Assuming *arguendo* that the Court finds that Plaintiff offered evidence that Mr. Webbe was exposed to asbestos-containing products that AC&S installed at DuPont-Chattanooga, and that Nancy was subsequently exposed to the same asbestos-containing dust on Mr. Webbe's work clothes, such exposure was *de minimis*.

In the first instance, there is no evidence that Mr. Webbe worked around AC&S's contractors during the contracting job in 1956, let alone with sufficient frequency and regularity. In fact, there is direct evidence that Mr. Webbe did not work with outside insulation contractors. (Deposition of Bill Webbe, January 18, 1998, pp. 11/26-12/2). Even if he did work around AC&S's workers during this contracting job, the record is silent as to the time interval he would have worked on the project and if he worked at said time interval for the entire project.

In the second instance, Mr. Webbe testified that during the contracting job AC&S performed in the early to mid-60's, he only checked on what AC&S's workers were doing on a few occasions, and there is no evidence that the materials that AC&S used contained asbestos (*Id.* at p. 12/14-30). Nevertheless, assuming that the materials did contain asbestos, "a few occasions" is insufficient to show more than *de minimis* exposure. See *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156, 4 (4<sup>th</sup> Cir. 1986) (even thirty days of exposure, more or less, is insignificant as a causal factor for asbestos-related illness).

Lastly, Mr. Webbe testified that during the contracting job AC&S performed between 1965 and 1970, he would check on the AC&S workers every day, and the contracting job lasted for less than a year. (Deposition of Pete Smith, March 17, 2002, pp. 87/14-19, 87/20-22). However, the record is silent as to how frequently Mr. Webbe actually worked near the AC&S workers, i.e., if he was close enough to be exposed to dust, since Mr. Smith worked on a different side of the factory and would not be able to see what Mr. Webbe was actually doing. (*Id.* at pp. 37/17-38/2, 87/1-5).

It follows that if Mr. Webbe was not exposed to an asbestos-containing product that AC&S installed at DuPont-Chattanooga with sufficient frequency and regularity to show more than *de minimis* exposure, neither was Nancy.

**D. Assuming Proximity, Frequency, and Regularity is Established, The Plaintiff Offers No Evidence of Negligence on the Part of AC&S.**

Negligence is the failure of a party to use reasonable care. It is a breach of the duty that we owe to our fellow citizens to behave in a reasonable and safe manner. As explained by the Blackacre Supreme Court, “negligence is the failure to do what a reasonable and prudent person would ordinarily have done under the circumstances of the situation, or doing what such person would not have done under existing circumstances.” *Smith v. Owens Corning Corp.*, 75 Bl. S. Ct. 1486 (1955). This duty of care applies to manufacturers as well as individuals. In short, Blackacre courts have consistently held that a manufacturing company can be found to be negligent if it knew, or should have known, that the materials used in a product rendered the product dangerous to the health of the user. *Id.* at 1488. In determining if a manufacturer should have known that a product was dangerous, Blackacre courts have considered evidence of what similar manufacturers in the industry knew as well as evidence of warnings or medical studies known to the manufacturer. *Patterson v. Raybestos Manhattan*, 79 Bl. S. Ct. 86 (1975). Given the dearth of case law on the



subject in Blackacre, AC&S assumes Blackacre courts will apply this standard to contractors and suppliers, such as AC&S, in the same way that it has been applied to manufacturers.

In short, there is no evidence that AC&S knew, or should have known, about the dangers associated with asbestos-containing insulation products. Further, there is no evidence in the record that other suppliers and contractors knew about the dangers of asbestos.

Notably, Mr. Smith testified that he never saw warning signs or labels at DuPont-Chattanooga, or on asbestos-containing products, that described the dangers of asbestos. (Deposition of Pete Smith, March 17, 2002, pp. 10/24-11/9, 72/9-12). Thus, there were no signs or labels that would put AC&S on notice of any dangers.

Although Mr. Smith testified that he heard rumors in the parking lot among DuPont's insulators, where they speculated that asbestos might be bad for them, Mr. Smith called this *pure speculation*. (*Id.* at p. 139/12-23). This indicates that the dangers of asbestos were not widely known. Further, Mr. Webbe testified that DuPont's insulators did not work with outside contractors, so any inference that AC&S's workers may have learned of these rumors in the parking lot is also pure speculation. (Deposition of Bill Webbe, January 18, 1998, pp. 11/26-12/2).

**E. Assuming Proximity, Frequency, and Regularity is established in addition to Negligence, AC&S is Entitled to Partial Summary Judgment for Its Role as a Contractor Under the Blackacre Construction Statute of Repose.**

Blackacre has adopted a statute of repose for improvements made to real property. Under the construction statute of repose, any action based on an act or omission in design, planning, or management of construction, or during construction, is governed by an eight-year repose period.

Bl. Code § 1-3. The statute states, in relevant part:

*No action to recover for... bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained as a result of such injury, shall be brought against any*

*person performing or furnishing the design, planning, surveying, supervision of construction, or construction of such improvement to real property more than eight years after the performance or furnishing of such services and construction.*

*Id.* Blackacre courts have already decided that installing insulation is a protected activity under the construction statute of repose. *Wood v. Eastern Insulation Co.*, 625 Bl. 2d 125 (1999). There, the reviewing court held that courts must determine whether the challenged actions constitute “an improvement to realty.” *Id.* The Court considered this a “common sense” inquiry. *Id.* The factors the *Wood* court applied under this test include: (1) is the improvement permanent in nature; (2) does it add to the value of the realty, for the purposes for which it was intended to be used; and (3) was it intended by the contracting parties that the ‘improvement’ in question be an improvement to real property or did they intend for it to remain personalty. *Id.* In applying this test, the court relied on the intention of the parties. *See id.* (finding that the insulation was *intended by the parties* to be permanent in nature, did add to the value of the realty, and did *intend* for the insulation materials to become part of the real property itself) (emphasis added).

The latest contracting job AC&S performed at DuPont as supported by the record is sometime between 1965 and 1970. Even assuming the job was performed in 1970, this lawsuit was filed thirty-one years later, well beyond the eight-year repose period. Bl. Code § 1-3. Thus, the only question remaining is whether AC&S’s contracting jobs constituted an improvement to realty as described by the *Wood* court. 625 Bl. 2d 125 (1999). Notably, this is a “common sense” factor test, so AC&S does not necessarily have to carry its burden on each individual factor.

As to the first factor, the record is clear that DuPont intended for AC&S’s insulation to be permanent in nature. Mr. Smith testified that people buy insulation with the hope that it will be a permanent and fixed installation. (Deposition of Pete Smith, March 17, 2002, p. 38/14-24). He also agreed that asbestos-containing insulation was the industry standard because it was “the best.”

(*Id.* at pp. 39/22-40/6). It can be strongly inferred that describing asbestos-containing insulation as “the best” suggests conformity with a purchaser’s hope that the insulation will be a permanent and fixed installation.

As to the second factor, the record is clear that asbestos-containing insulation was intended to add value to the realty (DuPont’s facility). Mr. Smith testified that insulation is supposed to prevent the loss of heat and energy. (*Id.* at p. 124/18-21). Mr. Smith also testified that asbestos-containing insulation is used because it is “effective,” and it is industry standard because it is “the best.” (*Id.* at pp. 39/3-14, 39/22-40/6). By reasonable inference, this suggests that asbestos-containing insulation is “effective” at preventing the loss of heat and energy and is the industry standard because it is “the best” at preventing the loss of heat and energy. Clearly, preventing the loss of heat and energy would increase the value of the realty by reducing energy costs.

As to the third factor, the record is clear that the ‘improvement’ in question was meant to be an improvement to real property rather than personalty. To this end, Mr. Smith agreed that the insulation at DuPont-Chattanooga became a part of the factory after it was installed. (*Id.* at pp. 44/20-45/1).

#### IV. CONCLUSION

The discovery completed to date has failed to produce any evidence that Plaintiff’s Decedent, Nancy Costeloe, was exposed to any asbestos-containing product or material that was distributed or installed by AC&S, let alone with sufficient frequency and regularity necessary to hold AC&S liable. The absence of these critical elements of Plaintiff’s cause of action precludes recovery in this instance.

In the first alternative, the discovery completed to date has failed to produce any evidence that AC&S was negligent in failing to warn about the dangers of asbestos-containing insulation

products. The absence of this critical element of Plaintiff's cause of action precludes recovery in this instance.

In the second alternative, the discovery completed to date indicates that AC&S's installation of insulation at DuPont-Chattanooga constituted an improvement to realty under the Blackacre construction statute of repose, as to which no reasonable jury could disagree. AC&S is therefore entitled to partial summary judgment on the contracting jobs AC&S performed at DuPont-Chattanooga.

**WHEREFORE**, Defendant, AC&S, Inc. hereby requests that this Court enter summary judgment in their favor as to Plaintiff David Costeloe, Individually and as Personal Representative of the Heirs and Estate of Nancy Costeloe, Deceased. Plaintiff has failed to satisfy several essential elements of proof, making summary judgment proper. In the alternative, AC&S requests that this Court enter partial-summary judgment in their favor on the contracting jobs AC&S performed at DuPont-Chattanooga. AC&S has demonstrated that the "common-sense" improvement to realty test under the construction statute of repose is satisfied as to which no reasonable jury could disagree. AC&S further requests all other appropriate relief.

This the 7<sup>th</sup> day of April, 2002.

Respectfully submitted,

**Holmes, Brandeis, Elkins,  
Smith & Cohen, LLP**

/s/ Andrew Morales  
Andrew Morales  
Blackacre Bar No. 12121212

Counsel for Defendant  
AC&S, Inc.

**Applicant Details**

First Name	Kasey
Last Name	Moraveck
Citizenship Status	U. S. Citizen
Email Address	<a href="mailto:kasey.moraveck@unc.edu">kasey.moraveck@unc.edu</a>
Address	<div> <div>Address</div> <div> <div>Street</div> <div>135 Forsyth Drive</div> <div>City</div> <div>Chapel Hill</div> <div>State/Territory</div> <div>North Carolina</div> <div>Zip</div> <div>27517</div> </div> </div>
Contact Phone Number	2032588909

**Applicant Education**

BA/BS From	University of Virginia
Date of BA/BS	May 2017
JD/LLB From	University of North Carolina School of Law
	<a href="https://law.unc.edu/">https://law.unc.edu/</a>
Date of JD/LLB	May 11, 2024
Class Rank	25%
Law Review/Journal	Yes
Journal(s)	North Carolina Civil Rights Law Review
Moot Court Experience	No

**Bar Admission****Prior Judicial Experience**

Judicial Internships/ Externships	Yes
Post-graduate Judicial Law Clerk	No

## Specialized Work Experience

### Recommenders

Savasta-Kennedy, Maria  
mskenned@email.unc.edu  
919.843.9805

Wilson, Dane  
Wilson.Dane@epa.gov  
Judge Jefferson, Griffin  
gij@coa.nccourts.org

**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

**KASEY MORAVECK**

Chapel Hill, NC 27514 | 203-258-8909 | kasey.moraveck@unc.edu

June 12, 2023

The Honorable Jamar K. Walker  
United States District Court for the Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510

Dear Judge Walker:

I am a rising third-year law student at the University of North Carolina School of Law. I am writing to apply for a 2024-2025 clerkship in your chambers. I am interested in remaining in the southeast and as a former undergraduate of the University of Virginia I would welcome the opportunity to begin my legal career in Virginia.

I believe that I would make a strong addition to your chambers based on my analytical and legal writing skills that I have acquired from my prior work experiences. Before attending law school, I had a career as a process engineer where I consulted with industrial manufacturing clients to help solve their water sourcing, treatment, and disposal problems and produced the reports and memoranda and that supported this work. In doing so, I honed my writing skills to communicate complex technical and regulatory information clearly and succinctly. I have drawn upon my technical writing experience as a law student to develop a research-focused and clarity-based approach to legal writing. My legal internships with the Environmental Protection Agency and the North Carolina Court of Appeals have enabled me to sharpen my legal research and writing skills in producing professional legal documents.

My resume, writing sample, and law transcript are submitted with my application. Also submitted are letters of recommendation from Professor Savasta-Kennedy of the University of North Carolina (919-843-9805), the Honorable Judge Jefferson Griffin of the North Carolina Court of Appeals (919-831-3700), and Dane Wilson of the Environmental Protection Agency (202-564-0544). Please contact me if I can provide you with any additional information. Thank you for considering my application.

Respectfully,



Kasey Moraveck

## KASEY MORAVECK

Chapel Hill, NC 27517 | 203-258-8909 | kasey.moraveck@unc.edu

### EDUCATION

**University of North Carolina Law School**, Chapel Hill, NC Expected May 2024

*Juris Doctor* | GPA: 3.622 | Class Rank: Top 25%

- Conference Editor, *North Carolina Civil Rights Law Review*, 2022–24
- Committee Member, Conference on Race, Class, Gender, and Ethnicity, 2023
- Center for Climate, Energy, Environment, and Economics (CE3) Scholar, 2023–24

**University of Colorado Law School**, Boulder, CO May 2022

*First-Year Law Student* | GPA: 3.663 | Class Rank: 27/170

**University of Virginia**, Charlottesville, VA May 2017

*Bachelor of Science*, Chemical Engineering | GPA: 3.162

- Thesis: The Social Climate and Infrastructure of Imperfect Produce Waste in America
- Capstone: Design and Specifications of Unit Operations in a Zero Waste Cocoa Manufacturing Facility
- Study Abroad: University of Melbourne, Melbourne, Australia (Spring 2016)

### EXPERIENCE

**Sage Patent Group**, Raleigh, NC May – Aug. 2023

*Summer Associate*

- Support patent prosecution team in writing patent applications and responding to Office Actions issued by the United States Patent and Trademark Office for telecommunications, semiconductor, software, and other technology clients.
- Assist litigation team in writing client opinion letters, developing litigation strategy, and performing legal research for federal patent infringement lawsuits.

**North Carolina Court of Appeals**, Raleigh, NC Aug. – Dec. 2022

*Judicial Intern for the Honorable Judge Jefferson Griffin*

- Authored bench briefs analyzing the relevant law for upcoming cases and wrote draft opinions for a mixed docket of civil and criminal cases.

**Environmental Protection Agency**, Washington, DC June – Aug. 2022

*Law Clerk (Volunteer), Monfort Getches Public Service Fellow*

- Performed legal research and wrote memoranda to assist the water enforcement division of EPA's Office of Enforcement and Compliance Assurance in its administrative and judicial enforcement cases.
- Supported enforcement cases pursued under the Clean Water Act, including actions brought against industries for PFAS violations, and the Safe Drinking Water Act.

**Acequia Assistance Project**, Boulder, CO Oct. 2021 – Jul. 2022

*Deputy Director*

- Facilitated project operation by managing and directing 13 student teams providing free legal research to protect Colorado Hispano's acequia (community operated irrigation-ditch) traditions.
- Researched Hispano settlement patterns and identified acequias eligible for protection under Colorado law.

**Brown and Caldwell**, New York, NY (previously Houston, TX) July 2017 – Apr. 2021

*Industrial Water Process Engineering Consultant, EIT*

- Led process engineering for construction and upgrades of industrial clients' wastewater treatment facilities, the largest facility treating 30 million gallons of water per day.
- Built business strategy and identified sales opportunities as a core member of company's data center and mission critical team working to expand the company's data center business with "Big Four" tech companies.
- Developed master plan for sourcing water and treating wastewater for greenfield hyperscale data center facility through 15-year build-out period, in collaboration with the municipality and state regulatory agency.

### PUBLICATIONS & PRESENTATIONS

- Kasey Moraveck, Robert McCandless, Thomas Steinwinder & Carla De Las Casas, *Discharge versus Reuse of Datacenter Wastewater* (2019). Presenter at New York Water and Environment Federation's (WEF's) Annual Meeting, Feb. 2020.
- Kasey Moraveck, Jonathan Sandhu, Houston Flippin, *Sludge Reduction and Uncoupling, Treatability Surprise and Full-Scale Benefits* (2019). Presenter at WEF Technical Exhibition and Conference, Sept. 2019.
- Zachary B. Hoffman, Tristan S. Gray, Kasey B. Moraveck et al., *Electrochemical Reduction of Carbon Dioxide to Syngas and Formate at Dendritic Copper-Indium Electrocatalysts*, 7 ACS Catalysis 5381 (2017).



**Internal Unofficial Transcript - UNC Chapel Hill**

Name : Kasey Moraveck

Student ID: 730532323

Print Date : 2023-06-07

- - - - - **Transfer Credits** - - - - -

**Transfer Credit from UNIVERSITY OF COLORADO**

Applied Toward SL Juris Doctor Program

**2022 Fall**

TRAN	999	ACADEMIC TRANSFER HOURS	30.00	30.00	TR	
Course Trans GPA:	0.000	Transfer Totals :	30.00	30.00		0.000

- - - - - **Academic Program History** - - - - -

Program : SL Juris Doctor

2022-07-08 : Active in Program

2022-07-08 : Law Major

- - - - - **Beginning of School of Law Record** - - - - -

**2022 Fall**

LAW	241	ENVIRONMENTAL LAW	3.00	3.00	A	12.000
LAW	246	FED JURISDICTION	3.00	3.00	B+	9.900
LAW	262	ENV OCEAN & COASTAL LAW	3.00	3.00	A	12.000
LAW	266F	PROF RESPONSIBILITY	3.00	3.00	B+	9.900
TERM GPA :	3.650	TERM TOTALS :	12.00	12.00		43.800
CUM GPA :	3.650	CUM TOTALS :	12.00	42.00		43.800

**2023 Spr**

LAW	206	CRIM PRO INVESTIGATION	3.00	3.00	B+	9.900
LAW	232	CONFLICT OF LAWS	3.00	3.00	A-	11.100
LAW	275	SECURED TRANSACTIONS	3.00	3.00	B+	9.900
LAW	286	PATENT LAW	3.00	3.00	A-	11.100
LAW	510	ENVIRONMENTAL JUSTICE	3.00	3.00	A	12.000
TERM GPA :	3.600	TERM TOTALS :	15.00	15.00		54.000
CUM GPA :	3.622	CUM TOTALS :	27.00	57.00		97.800

UNOFFICIAL TRANSCRIPT

This transcript represents courses taken as part of an undergraduate, graduate, or professional program; it may or may not represent all courses taken at the University of Colorado.

NAME: Moraveck, Kasey Babe  
STUDENT NR: XXX-XX-5218/110299347 BIRTHDATE : 05/11/XXXX  
PRINT DATE: 05/24/2022  
RANK: 27/170 AS OF 05/24/2022

Other Institutions Attended:

HIGHER EDUC. INSTITUTIONS: Butler University  
Indianapolis IN 01/16 - 05/16  
  
Univ Virginia  
DEGREE: BAC 05/2017  
Charlottesville VA 08/13 - 05/17

COURSE TITLE				CRSE NR		UNITS	GRADE	PNTS
-----				Fall 2021 CU Boulder Law				-----
School of Law								
Contracts Instructor: Erik Gerding				LAWS 5121		4.0	B+	13.20
Legislation and Regulation Instructor: Sharon Jacobs				LAWS 5205		3.0	A-	11.10
Legal Writing I Instructor: Megan Hall				LAWS 5226		2.0	A-	7.40
Civil Procedure Instructor: Frederic Bloom				LAWS 5303		4.0	A-	14.80
Torts Instructor: Alexia Brunet				LAWS 5425		3.0	A	12.00
ATT	16.0	EARNED	16.0	GPAHRS	16.0	GPAPTS	58.50	GPA 3.656
-----				Spring 2022 CU Boulder Law				-----
School of Law								
Legal Writing II Instructor: Megan Hall				LAWS 5223		2.0	A-	7.40
Criminal Law Instructor: Ahmed White				LAWS 5503		4.0	B+	13.20
Property Instructor: Kristelia Garcia				LAWS 5624		4.0	A-	14.80
Foundations of Legal Research Instructor: Aamir Abdullah Graded P or F only; No student option.				LAWS 5646		1.0	P	0.00
Constitutional Law Instructor: Scott Skinner-Thompson				LAWS 6005		4.0	A	16.00
ATT	15.0	EARNED	15.0	GPAHRS	14.0	GPAPTS	51.40	GPA 3.671
-----								
CUMULATIVE CREDITS :								
		TR	CU	TOT		QUAL	QUAL	GPA
		UNITS	UNITS	UNITS		UNITS	PTS	
LAW		0.0	31.0	31.0		30.0	109.90	3.663
***** END OF ACADEMIC RECORD ****								

June 11, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

It is my great pleasure to recommend Kasey Moraveck for a clerkship with your chambers upon her graduation in May 2024. I have written recommendations for many of my promising students over the past 25 years, but Ms. Moraveck is a standout. Why? Because in addition to being a whip-smart researcher and writer, Ms. Moraveck is intellectually curious. She has a love of learning -- and of life -- that makes her a joy to teach and to interact with. She will be a wonderful colleague wherever she ends up practicing law, and would be an outstanding addition to your chambers.

Ms. Moraveck was a student in my Environmental Law course last fall semester and my Environmental Justice course this past spring. The two courses require different skill sets and Ms. Moraveck excelled at both. Environmental law requires students to read, analyze and parse the complicated statutes, regulations and cases that govern pollution control in the United States. Ms. Moraveck grasped the intricacies of the Clean Air Act, the Clean Water Act, CERCLA and NEPA, as well as the complex web of underlying science, market and social forces underlying the regulation. She asked excellent questions in class and expertly applied her knowledge in the final examination, earning one of the few straight "A's" in the class.

Ms. Moraveck also earned one of the two "A's" I awarded in my Environmental Justice course this past spring semester. She researched, analyzed, and wrote an outstanding paper on the regulation of lead pipes used to deliver drinking water in the United States. Her analysis of the law, the science, health, and policy implications of our aging lead pipe infrastructure was thorough, accessible, precise, and beautifully written.

Ms. Moraveck is also an active member of UNC Law School's community, no easy task for a transfer student who arrived at Carolina at the beginning of her 2L year. In addition to being chosen as a CE3 Scholar for UNC Law's Center for Climate, Energy, Environment & Economics, Ms. Moraveck serves as a Conference Editor for the North Carolina Civil Rights Law Review, and helped put on last year's conference for the Committee on Race, Class, Gender and Ethnicity.

In addition to teaching environmental law courses, I am the Director of UNC Law's Externship Program. I have worked with literally hundreds of law students externing with judges at the state and federal levels, and I have learned what it takes for a student to successfully contribute to the work of chambers. Ms. Moraveck demonstrates the careful analysis, attention to detail and outstanding research and writing skills that are the hallmarks of an exceptional law clerk. I believe that she would make an excellent addition to your chambers, and I give her my highest recommendation.

Thank you for your consideration. Please do not hesitate to contact me at [mskenned@email.unc.edu](mailto:mskenned@email.unc.edu) (or 919-843-9805) if you desire additional information.

Sincerely,

Maria Savasta-Kennedy  
Clinical Professor of Law

Maria Savasta-Kennedy - [mskenned@email.unc.edu](mailto:mskenned@email.unc.edu) - 919.843.9805



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

WASHINGTON, D.C. 20460

March 1, 2023

Re: Kasey Moraveck

To whom it may concern:

I am proud to provide this recommendation for Kasey Moraveck, who served as a law clerk for me at the U.S. Environmental Protection Agency's Office of Civil Enforcement last year. During that time, she proved herself a wonderful addition to our legal team. Not only is the quality of Kasey's work excellent, but she consistently showed a willingness to take on complex legal issues. She provided valuable assistance to many of my colleagues, and we truly missed having Kasey in our division when her clerkship was over. However, I am always heartened when a bright, talented student chooses to spend their career finding ways to serve the public.

During Kasey's time here, she worked closely with our attorneys on a variety of matters, including performing legal research on state and federal statutes, preparing memos, and assisting in the development of enforcement documents. Because of her aptitude, we assigned Kasey to our most challenging and high-profile work. For one assignment she produced a memo outlining potential defenses to one of the biggest emergency actions that EPA has ever taken under the Safe Drinking Water Act to address PFAS contamination. The work she did to support that enforcement order had a real, measurable impact on human health and the environment.

As a career public servant, I am always encouraged when we see talented and successful students pursue opportunities in government and public service. I believe these opportunities make them more well-rounded candidates for any legal setting. Kasey easily stands among the best of these students. Do not hesitate to give her a chance to prove herself within your organization and immediately assign her to your most challenging and important work. She will prove to be among the most valued members of your team in short order.

Sincerely,

Dane A. Wilson  
Attorney-Advisor  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave NW  
Washington, DC  
(202) 564-0544  
Wilson.dane@epa.gov

NORTH CAROLINA COURT OF APPEALS



CHAMBERS OF  
JUDGE JEFFERSON GRIFFIN

919-831-3700  
PO BOX 888, RALEIGH, NC 27602  
JEFFERSON.GRIFFIN@COA.NCCOURTS.ORG

RE: Recommendation of Kasey Moraveck for Judicial Clerkship

5 February 2023

Judge or Justice,

It is my pleasure to be able to recommend Kasey for a judicial clerkship. Kasey was an intern for me at the North Carolina Court of Appeals in 2022. She was with us for an entire semester. She integrated into our operations seamlessly. She was able to effectively work with my clerks to improve our efficiency. She performed numerous cite checks and assisted in legal research and drafting opinions.

Kasey has great attention to detail. All her assignments were completed thoroughly. She also had the skill and confidence to earn the respect of my clerks. She was able to make the most of her time with us by utilizing those relationships.

I assigned Kasey a case with an issue of first impression to our North Carolina courts. She was able to quickly analyze and apply the law from the federal courts and other jurisdictions. She also skillfully drafted a lot of the initial analysis. I have no doubt that she will excel in future writing opportunities.

She was diligent in her attendance and in completing tasks. Her work ethic was excellent during her time with us. I have no reason to believe that she would not be successful in any judicial clerkship. Her academic success speaks for itself and her performance working for me substantiates it.

Please let me know if you have any other questions or I can provide other information. You can reach me at [gij@coa.nccourts.org](mailto:gij@coa.nccourts.org).

Respectfully,

A handwritten signature in blue ink, appearing to read "J. Griffin", is written over a horizontal line.

Jefferson Griffin  
Judge  
North Carolina Court of Appeals

## KASEY MORAVECK

Chapel Hill, NC 27514 | 203-258-8909 | kasey.moraveck@unc.edu

### WRITING SAMPLE

---

I completed the attached brief for my Ocean and Coastal Law course during my fall 2022 semester of my second year of law school. The attached version of the brief was the final assignment of the semester and is entirely my own writing and research. My professor reviewed an initial draft of the brief and provided one minor suggestion – that I include a parenthetical for one of the cases I cited.

For the purposes of the assignment, the professor presented the following hypothetical scenario based on real events that occurred along the North Carolina coast:

The United States Army Corps of Engineers (the Corps) is responsible for the dredging of Beaufort Inlet to maintain the federally authorized Morehead City Harbor navigation channel in Carteret County, North Carolina. Dredging is a process by which sand and other material from the ocean floor is excavated to maintain a particular water depth in a navigation channel. The material removed from the bottom of the ocean is called “dredged material” and the Corps is also responsible for placing this material in approved ocean or land disposal sites. Pursuant to a settlement agreement between the Corps and Carteret County, the Corps agreed to prepare a new dredged material management plan (DMMP) and Environmental Impact Statement (EIS) for the Morehead City Harbor navigation channel for 2015 through 2034. In its final EIS, and later, in its Record of Decision, the Corps selected a recommended alternative to include the placement of dredged material, for the first time, on the beaches and off the coast of Shackleford Banks. Shackleford Banks is an 8-mile-long undeveloped barrier island that is part of the Cape Lookout National Seashore, which is owned and managed by the National Park Service (NPS). The NPS has also proposed Shackleford Banks for designation as a wilderness area and manages it as such. Vehicles are not allowed on the island, and it can only be reached by boat.

In this hypothetical, I was an attorney working for the North Carolina Coastal Federation (representing its Carteret County members challenging the Corps’ decision to place dredged material on Shackleford Banks. I was asked to submit a brief in support of its motion for summary judgment to the United States District Court for the Eastern District of North Carolina. I argued that the Coastal Federation was entitled to summary judgement because its EIS was prepared in violation of the National Environmental Protection Act (NEPA).

For the sake of brevity, I have removed the Statement of Facts section of my brief. The entire brief is available upon request.

## **INTRODUCTION**

For the first time since dredging of the Morehead City Harbor navigation channel began in 1910, the United States Army Corps of Engineers (the Corps) unlawfully plans to dispose of dredged material on the beaches and off the coast of Shackleford Banks, a barrier island known for its wilderness character. Shackleford Banks is an 8-mile-long barrier island that is part of the Cape Lookout National Seashore, one of ten national seashores in the United States. The National Park Service (NPS) has recommended that Shackleford Banks be managed as a wilderness area, and it is currently the only barrier island in North Carolina managed as such. The island is pristine and remote; it is only accessible by boat with vehicles prohibited on the island. The North Carolina Coastal Federation has 16,000 supporters, including those who reside in Carteret County and travel to Shackleford Banks to take advantage of its natural beauty and ample recreation activities including fishing, beachcombing, camping, and surfing.

The Corps' selection of Shackleford Banks as a disposal site violates the National Environmental Policy Act (NEPA) and the Administrative Procedure Act (APA). The Corps is responsible for managing dredging of the Morehead City Harbor navigation channel and prepared an environmental impact statement (EIS), pursuant to NEPA, to plan for the dredged material management of the channel from 2015 through 2034. In its EIS, the Corps failed to take a hard look at the indirect environmental effects of using Shackleford Banks as a disposal area. The North Carolina Coastal Federation moves for summary judgment because the Corps' EIS evaluation was arbitrary and capricious.

## **STANDARD OF REVIEW**

Summary judgment is appropriate “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P.

56(a). The APA authorizes a reviewing court to hold unlawful and set aside final agency actions that are arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with the law. 5 U.S.C. § 706(2)(A). A Record of Decision (ROD) under NEPA is a final agency action subject to judicial review under the APA. 40 C.F.R. § 1500.3(c) (2020).

A court can set aside an agency action as arbitrary and capricious under the APA if the agency has not “examine[d] the relevant data and articulate[d] a satisfactory explanation for its action, including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). A reviewing court must make a factual inquiry to “consider whether the decision was based on a consideration of relevant factors and whether there has been a clear error of judgement.” *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 378 (1989) (quoting *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 416 (1971)). Under NEPA, a court must ensure that the agency has taken a hard look at the environmental consequences of its proposed action. *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n.21 (1976).

### **STATEMENT OF FACTS**

....

### **ARGUMENT**

#### **I. The Corps violated NEPA and the APA by conducting an arbitrary and capricious EIS analysis.**

The Corps’ EIS analysis was arbitrary and capricious under the APA, and thus, in violation of NEPA, because it failed to take a hard look at the indirect environmental effects of disposing dredged material from the navigation channel on Shackleford Banks and off the island’s coast. Congress enacted NEPA in 1969 to establish a national policy to “encourage productive and enjoyable harmony between man and his environment” and to promote efforts to



“prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.” 42 U.S.C. § 4321. The preparation of an EIS serves NEPA’s broad commitment to protecting and promoting environmental quality. *See Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348-49 (1989). In part, an agency’s EIS must include an evaluation of “the environmental impact of the proposed action” and “alternatives to the proposed action.” 42 U.S.C. § 4332(1)(C). An agency must consider “ecological . . . aesthetic, historic, cultural, economic, social, or health” *direct, indirect, and cumulative effects or impacts* to the environment of all reasonable alternatives. 40 C.F.R. § 1508.1(g) (2020) (emphasis added).

The Corps violated NEPA and the APA by failing to appropriately analyze the indirect environmental effects of using Shackleford Banks as a disposal site in two ways. First, the Corps’ conclusion that Shackleford Banks required and would benefit from renourishment was arbitrary and capricious. Second, the Corps’ decision to dispose of dredged material in the middle of the island to offset shoreline loss was arbitrary and capricious because it is incongruous with the island’s erosion and shoaling trends.

**A. The Corps’ conclusion that Shackleford Banks requires and would benefit from renourishment is unsupported.**

In determining that Shackleford Banks, part of the Cape Lookout National Seashore, requires active intervention to offset erosion, the Corps did not sufficiently evaluate the indirect environmental effects of disposing of dredged material on its beaches and coast for the first time. An agency’s determination is arbitrary and capricious if it “entirely failed to consider an important aspect of the problem.” *Sierra Club v. U.S. Dep’t of the Interior*, 899 F.3d 260, 293 (4th Cir. 2018) (quoting *State Farm*, 436 U.S. at 43) (holding that a pipeline right of way issued by the NPS was arbitrary and capricious because the NPS failed to consider pipeline’s effect on views from the Blue Ridge Parkway, whether drilling of the pipeline would remain consistent

with park purposes, and the risks of spills and fires from the pipeline). An agency must take “particular care” to evaluate how its actions will affect an area that “Congress has specifically designated for federal protection.” *Nat’l Audobon Soc’y v. Dep’t of Navy*, 422 F.3d 174, 186-87 (4th Cir. 2005) (holding that an EIS prepared by the Navy was deficient because it did not sufficiently evaluate the effects of siting a landing field within five miles of a National Wildlife Refuge).

In its selection of Shackleford Banks as a disposal site, the Corps failed to take a hard look at the indirect esthetic effects of beach disposal on the island’s natural and untouched character. The Corps characterized Shackleford Banks’ esthetic resources to include expansive vistas, intimate-scale areas, variety, and remoteness. U.S. Army Corps of Eng’rs, *Integrated Dredged Material Management Plan and Environmental Impact Statement* 208 (2013) [hereinafter Army Corps EIS]. But the Corps neglected to evaluate how disposal of dredged material onto the beaches of Shackleford Banks would affect any of these esthetic resources in its environmental impact analysis. Without support, it claimed that its proposed plan would “improve esthetics” Army Corps EIS, *supra*, at 265. The Corps’ consideration of the No Action alternative also failed to consider any potential esthetic benefits to leaving the island untouched. Army Corps EIS, *supra*, at 266. In sum, the Corps did not consider either the esthetic consequences of implementing its plan or benefits of not doing so. This lack of consideration was arbitrary and capricious under the APA because the Corps “entirely failed to consider an important aspect of the problem.” *Sierra Club*, 899 F.3d at 293.

Esthetic impacts are especially important because Shackleford Banks is part of the Cape Lookout National Seashore. Congress designated the Cape Lookout National Seashore, which includes Shackleford Banks, “[i]n order to preserve for public use and enjoyment an area . . .

possessing outstanding natural and recreational values.” 16 U.S.C. § 459(g). A Fourth Circuit case, *Nat’l Audubon Society v. Dep’t of Navy*, demonstrates that an agency must closely scrutinize the environmental impacts of a proposed action that affects federally protected land. 422 F.3d at 181. In this case, the Navy prepared an EIS to select a location for a new landing field in North Carolina. *Id.* at 181. The Navy selected a location within five miles of the Pocosin Lakes National Wildlife Refuge. *Id.* The Fourth Circuit determined that the Navy’s EIS was deficient, holding that the proximity of the landing field location to a wildlife area bore heavily in its inquiry and that the Navy’s hard look must “take particular care to evaluate how its actions will affect the unique biological features of this congressionally protected area.” *Id.* at 181, 186-87.

The Fourth Circuit’s particular care standard for federally protected land applies to Shackleford Banks because it is part of the Cape Lookout National Seashore. Even more consequential than the *National Audubon Society* case where the Navy selected a landing field five miles away from a protected area, the Corps selected the protected beaches of Shackleford Banks themselves as a dredged material disposal site. The NPS manages the Cape Lookout National Seashore according to its 2006 Management Policies. Pursuant to the Organic Act, the NPS states that it “must leave park resources and values unimpaired.” Nat’l Park Serv., *Management Policies* 11 (2006). Values subject to this non-impairment standard include: the park’s scenery, scenic features, and natural landscapes. *Id.* at 11. These values reflect the esthetic resources that Shackleford Banks provides as a part of the Cape Lookout National Seashore, which is something the Corps purports to address in its EIS. *See* Army Corps EIS, *supra*, at 208, 265. However, the Corps did not include any analysis of the impact of dumping of dredged material onto the beaches of Shackleford Banks on the island’s scenery and landscapes. Thus, the

Corps did not meet the hard look standard under NEPA nor the particular care standard required for federally protected lands in its environmental impact analysis.

In addition to its National Seashore protections, the NPS has proposed under the Wilderness Act that Shackleford Banks be designated as a wilderness, and currently manages it as such. Army Corps EIS, *supra*, at 216. The purpose of the Wilderness Act is to prevent the United States from being left without any “lands designated for preservation and protection in their natural condition.” 16 U.S.C. §1311. The disposal of dredged material on Shackleford Banks will alter the island’s natural condition, so doing so will directly contradict its management as a wilderness. In its EIS, the Corps acknowledged that the use of Shackleford Banks as a disposal site will cause it to “lose some of its natural character . . . due to active manipulation of the beach front” but clarified that this adverse impact would be temporary. Army Corps EIS, *supra*, at 272-73. However, disruption of the island’s beaches every three years by dredged material will have long term and permanent effects on the island’s wilderness character, because the island has never before been used as a disposal site. The Corps’ failure to consider the long-term, indirect impacts to the wilderness character of Shackleford Banks was arbitrary and capricious because the Corps failed to address an important aspect of the problem.

The Corps also failed to consider that Shackleford Banks does not require stabilization and would benefit from allowing its natural processes to dominate. Its EIS acknowledges that “ecological systems on the island are substantially free from the effects of modern civilization and natural processes on the island are allowed to function free of human control or manipulation.” Army Corps EIS, *supra*, at 216. Professor Stephen Fegley of the University of North Carolina considers leaving the island untouched as a benefit. He states that “the Corps and NPS do not recognize how rare and perishable an unnourished barrier island is where we can

observe and appreciate nature responding to environmental factors without our intervention.” N.C. Coastal Fed’n, *Keep Shackleford Banks Pristine 2* (2012). In contrast, the Corps concluded that Shackleford Banks requires active intervention to offset erosion, due in part to over a century of dredging the adjacent navigation channel. Army Corps EIS, *supra*, at 217. In making this determination, the Corps ignored two aspects of the problem. First, as explained by Professor Fegley, barrier islands are meant to be dynamic systems and that “trying to stabilize a barrier island actually removes this essential character.” N.C. Coastal Fed’n, *supra*, at 2. Summarized by Dr. Orrin Pilkey of Duke University, “There is no erosion ‘problem’ at Shackleford.” Second, the Corps ignores the possibility that the erosion is beneficial to the island. *Id.* at 1. Dr. Pilkey explains that Shackleford is doing exactly what it should be doing, which is thinning down to get ready for sea level rise. *Id.* The Corps’ conclusion that stabilizing Shackleford Banks would provide long-term benefits to the island was arbitrary and capricious because it failed to address the contrary consideration that the dynamism of Shackleford Banks helps to protect the island.

**B. The Corps’ conclusion that dredged material placement on Shackleford Banks will mitigate the island’s erosion is unsupported.**

The Corps failed to support that dredged material placement in the middle of Shackleford Banks will reduce erosion on the western end of the island, considering the natural movement of sand along the island. An agency’s determination is arbitrary and capricious if it “offered an explanation for its decision that runs counter to the evidence before the agency.” *Sierra Club*, 899 F.3d at 293 (quoting *State Farm*, 436 U.S. at 43) (holding that a pipeline right of way issued by NPS was arbitrary and capricious because it cited an inapplicable statutory provision and inapplicable set of regulations in justifying its decision). In preparing its EIS, the agency is responsible for ensuring the scientific integrity of its analyses, making use of reliable existing

data and resources. 40 C.F.R. § 1502.23 (2020). While NEPA does not mandate that an agency reaches a particular result, it does prohibit uninformed agency action. *Robertson*, 490 U.S. at 350-51.

The Corps have assumed, without scientific analysis, that placement of dredged material in the middle of Shackleford Banks will reduce long-term erosion that occurs for the majority, on the western end of the island. The Corps completed a volumetric analysis of Shackleford Banks in its EIS. Army Corps EIS, *supra*, at 53. The results of this analysis are summarized in Figure 1.

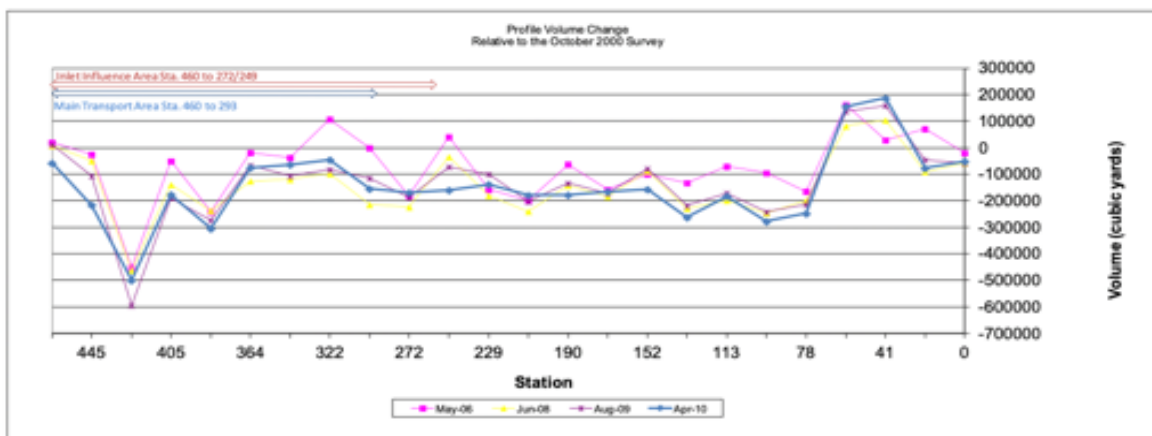


Figure 1. Shackleford Banks Volume Loss by Station. *Id.*

From the data presented in Figure 1, the Corps concluded that the most significant erosion occurs at Station 424. *Id.* East of this, erosion is less significant or even non-existent; the eastern end of the island is gaining sand, a process known as accretion. Based on this data, rather than place dredged material on the western tip of the island where the erosion is most significant, the Corps chose to dispose of dredged material in the middle of the island, shown by the yellow bar in Figure 2.



Figure 2. Proposed Shackleford Banks Disposal Area. *Id.* at 56

Dr. Pilkey questions this decision by the Corps, stating that “it’s not even clear that disposal of dredged material of the island will benefit the western tip.” N.C. Coastal Fed’n, *supra*, at 1. The Corps explains that disposal on the middle of the island is necessary to “reduce rapid shoaling of the material back into the navigation channel.” Army Corps EIS, *supra*, at 53. The island does experience shoaling on its western end, but the Corps provides no scientific explanation as to why disposal of material in the middle of Shackleford Banks will reduce shoaling on the western end of the island. Under NEPA’s regulations, the Corps thus failed to “ensure the scientific integrity of its analysis.” 40 C.F.R. § 1502.23. The Corps’ primary reason for selecting Shackleford Banks as a dredged material disposal site is to reduce human-exacerbated erosion on the island. If the alternative the Corps selected will not solve this problem, the Corps has conducted an arbitrary and capricious EIS analysis.

The Corps also failed to appropriately consider the shoaling that occurs off Shackleford Banks in concluding that beach disposal will reduce erosion on the island. The Corps determined

that based on a western littoral transport rate, that dredged material placed in the middle of Shackleford Banks “should move toward the west and nourish the eastern side of the ebb tide delta.” Army Corps EIS, *supra*, at 84. However, in making this determination, the Corps neglected to consider its own data that dredged material might shoal or fall back into the navigation channel. In its bathymetric analysis, the Corps found that the ebb tide delta region had generally been eroding from 1974 to 2009, but that shoaling had occurred right off the western tip of Shackleford Banks. *Id.* at 66-69. Despite the shoaling evidence before it, the Corps made an unsupported assumption that dredged material disposed on the beaches of Shackleford Banks would not be subject to the shoaling observed for over 30 years off the island, instead assuming that the sand would remain on the island to help mitigate the effects of erosion. Because the Corps offered an explanation for its decision that ran counter to the evidence in front of it, its erosion analysis was arbitrary and capricious under the APA.

### **CONCLUSION**

In selecting Shackleford Banks as a disposal site, the Corps arbitrarily and capriciously conducted its EIS analysis, violating NEPA and the APA. The North Carolina Coastal Federation plaintiffs request that the Court grant their motion for summary judgment.

Respectfully submitted on this 16th day of November, 2022.



**Applicant Details**

First Name **Brady**  
Middle Initial **D**  
Last Name **Morris**  
Citizenship Status **U. S. Citizen**  
Email Address [brady.d.morris@vanderbilt.edu](mailto:brady.d.morris@vanderbilt.edu)

Address

**Address**

Street

**444 Elmington Ave Apt 425**

City

**Nashville**

State/Territory

**Tennessee**

Zip

**37205**

Country

**United States**

Contact Phone  
Number **5079900647**

**Applicant Education**

BA/BS From **Loyola University Chicago**  
Date of BA/BS **May 2021**  
JD/LLB From **Vanderbilt University Law School**  
<http://law.vanderbilt.edu/employers-cs/judicial-clerkships/index.aspx>  
Date of JD/LLB **May 10, 2024**  
Class Rank **School does not rank**  
Law Review/Journal **Yes**  
Journal(s) **Vanderbilt Journal of Transnational Law**  
Moot Court **Yes**  
Experience **Yes**  
Moot Court Name(s) **Vanderbilt Bass, Berry, & Sims Moot Court Competition**

**Bar Admission**

### **Prior Judicial Experience**

Judicial Internships/  
Externships      **No**  
Post-graduate Judicial  
Law Clerk      **No**

### **Specialized Work Experience**

#### **Recommenders**

Maroney, Terry  
terry.maroney@vanderbilt.edu  
615-343-3491

Wuerth, Ingrid  
ingrid.wuerth@vanderbilt.edu  
615-322-2304

Shaw, Matthew  
matthew.shaw@vanderbilt.edu  
9173997599

**This applicant has certified that all data entered in this profile and  
any application documents are true and correct.**

Brady DeLane Morris  
2902 Fremont Ct. SW  
Rochester, MN 55902

June 12, 2023

The Honorable Judge Jamar K. Walker  
United States District Court for the Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510

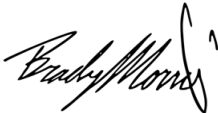
Dear Judge Walker:

I am a second-year student at Vanderbilt University Law School writing to express my sincere interest in a judicial clerkship in your chambers beginning in 2024. I hope to have a legal career in federal public service, and I believe your background with the Department of Justice would make a clerkship experience in your chambers particularly rewarding.

As a first-generation graduate student, I am deeply motivated to learn and succeed in the legal field—and to put the privilege of a legal education to work in public service. I view a judicial clerkship not only as an opportunity to learn and grow professionally, but as an opportunity to serve the justice system and the Chicago community. As the Executive Article Selection Editor of the Vanderbilt Journal of Transnational Law, I have deepened my involvement in legal scholarly writing, and I find fulfillment in playing a small role in shaping international legal scholarship. I believe my academic experiences, as well as experience in public service at both the state and federal level, would help me contribute positively and collaboratively toward resolving the complex legal issues that will come up on the docket.

Enclosed please find my resume, transcript, and writing sample; the clerkship office has enclosed letters of recommendation from Professors Matthew Shaw, Ingrid Brunk, and Terry Maroney. Please let me know if there is any additional information I can provide. Due to frequently poor cell phone reception in my office, if you are unable to reach me by phone, please reach out by email. I am sincerely grateful for your consideration of my application to serve as a judicial clerk in your chambers.

Respectfully,



Brady Morris

## BRADY D. MORRIS

2902 Fremont Ct. SW, Rochester, MN 55902 | (507) 990-0647 | brady.d.morris@vanderbilt.edu

### EDUCATION

#### VANDERBILT LAW SCHOOL

Nashville, TN

Candidate for *Doctor of Jurisprudence*

May 2024

GPA: 3.811

Honors: Dean's List (Spring 2022, Fall 2022); Phi Delta Phi; Dean's Leadership Award

Journal: VANDERBILT JOURNAL OF TRANSNATIONAL LAW

Leadership: *Executive Article Selection Editor*, VANDERBILT JOURNAL OF TRANSNATIONAL LAW;  
*Treasurer*, International Law Society

Activities: Moot Court; Co-Counsel Mentor; Legal Aid Society; Environmental Law Society; Space Law Society; Vanderbilt in Venice; Mock Trial; Vanderbilt Law School 1L Ambassador

#### LOYOLA UNIVERSITY CHICAGO

Chicago, IL

*Bachelor of Business Administration, honors, summa cum laude*, Finance

May 2021

GPA: 3.978

Honors: Business Honors Program; Alpha Sigma Nu; Dean's List; PNC Student Achiever

Activities: Student Government, Student Representative to the Board of Trustees; Quinlan Ambassador Program, Co-Chair; Campus Ministry; Chamber Choir; Delta Sigma Pi; John Felice Rome Center, Weinig Traveling Fellow, *Rome, Italy*.

### EXPERIENCE

#### U.S. DEPARTMENT OF STATE

Washington, D.C.

*Intern, Office of the Legal Advisor*

Summer 2023

- Conduct legal research and analysis for the Offices of Political-Military Affairs and Employment Law on international legal issues and employment policy and disputes against the department
- Draft memos on domestic and international legal issues and assist in drafting briefs representing the Department before administrative bodies including the EEOC and MSPB

#### TENNESSEE DEPARTMENT OF ENVIRONMENT & CONSERVATION

Nashville, TN

*Summer Legal Intern, Office of General Counsel*

June – August 2022

- Conducted legal research and drafted and edited memoranda, administrative orders and motions, and professional correspondence on issues of environmental law, administrative law, public land management issues, and general state government administration
- Attended administrative board meetings and legislative committee hearings

#### VANDERBILT LAW SCHOOL; GLOBAL RIGHTS COMPLIANCE

Nashville, TN

*Legal Analyst*

May – June 2022

- Researched and analyzed counterterrorism law and terrorist activity in West African countries for a report produced for the U.S. Department of State

#### MORNINGSTAR, INC

Chicago, IL

*Summer Intern*

July 2020

- Collaborated with a team to innovate and present the winning product solution for a problem pertaining to integrating sustainable investing (ESG) data into the Private Equity Markets

#### A CUT ABOVE LAWN SERVICE, LLC

Rochester, MN

*Operations Assistant*

2014 – 2020

- Worked with family business to operate machinery and maintain excellent customer relationships

### HOBBIES & INTERESTS

Singing, playing, and performing music and theatre, and learning new instruments; Spending time exploring the outdoors hiking, skiing, and traveling; Cooking & Baking as a Food Network Enthusiast; American Cancer Society's Relay for Life; Theatre Camp Instructor; Music Ministry

OFFICE OF THE UNIVERSITY REGISTRAR  
NASHVILLE, TENNESSEE 37240

# VANDERBILT UNIVERSITY

Page 1 of 2

Name : Brady Morris  
Student # : 000765620  
Birth Date : 08/20

Information contained in this document is confidential and should not be released to a third party without the written permission of the student.  
A black and white document is not official.

Date: 06/04/2023

## Academic Program(s)

Law J.D.  
Law Major

LAW 7068	Comp Perspec Counter Te	2.00	A	8.00
Instructor: LAW 7252	Michael Newton			
Instructor: LAW 7718	International Arbitration	2.00	A	8.00
Instructor:	Timothy Meyer			
	Transnational Litigation	2.00	A	8.00
	Ingrid Wuerth			

## Law Academic Record (4.0 Grade System)

LAW 6010	Civil Procedure	4.00	A-	14.80
Instructor: Nicholas Zeppos				
LAW 6020	Contracts	4.00	B+	13.20
Instructor: Rebecca Allensworth				
LAW 6040	Legal Writing I	2.00	A	8.00
Instructor: Kelly Murray				
LAW 6060	Life of the Law	1.00	P	0.00
Instructor: James Rossi				
LAW 6090	Torts	4.00	B+	13.20
Instructor: James Rossi				

	EHRS	QHRS	QPTS	GPA
SEMESTER:	15.00	14.00	49.20	3.514
CUMULATIVE:	15.00	14.00	49.20	3.514

Term Honor: Dean's List

## 2022 Spring

LAW 6030	Criminal Law	3.00	A-	11.10
Instructor: Terry Maroney				
LAW 6050	Legal Writing II	2.00	A-	7.40
Instructor: Kelly Murray				
LAW 6070	Property	4.00	A	16.00
Instructor: Jacqueline Pittman				
LAW 6080	Regulatory State	4.00	A	16.00
Instructor: Christopher Serkin				
LAW 8020	Adv Topics Int'l Humanitarian	3.00	A-	11.10
Instructor: Kevin Stack				
	Michael Newton			

	EHRS	QHRS	QPTS	GPA
SEMESTER:	16.00	16.00	61.60	3.850
CUMULATIVE:	31.00	30.00	110.80	3.693

SEMESTER:	EHRS	QHRS	QPTS	GPA
CUMULATIVE:	6.00	6.00	24.00	4.000
	37.00	36.00	134.80	3.744

Term Honor:

Dean's List

## 2022 Fall

LAW 5770	Jrn'l Transnat'l Law	0.00	P	0.00
Instructor: Ingrid Wuerth				
LAW 5900	Moot Court Competition	1.00	P	0.00
Instructor: Susan Kay				
LAW 7078	Constitutional Law I	4.00	A	16.00
Instructor: Matthew Shaw				
LAW 7116	Corporations & Bus. Ent.	4.00	A-	14.80
Instructor: Brian Broughman				
LAW 7221	Human Trafficking Short Course	1.00	P	0.00
Instructor: Michael Newton				
LAW 7266	Int'l Criminal Law	3.00	A	12.00
Instructor: John Richmond				
LAW 7571	Outer Space Law Short Course	1.00	P	0.00
Instructor: Michael Newton				
	Steven Mirmina			

SEMESTER:	EHRS	QHRS	QPTS	GPA
CUMULATIVE:	14.00	11.00	42.80	3.890
	51.00	47.00	177.60	3.778

LAW 5770	Jrn'l Transnat'l Law	1.00	P	0.00
Instructor: Ingrid Wuerth				
LAW 7180	Evidence	4.00	A	16.00
Instructor: Garrick Pursley				
LAW 7284	Intn'l Protection/Human	3.00	A-	11.10
Instructor: Michael Newton				
LAW 7600	Professional Respons.	3.00	A	12.00
Instructor: Mozanio Reliford				
LAW 7614	Public International Law	3.00	A	12.00
Instructor: Ingrid Wuerth				

SEMESTER:	EHRS	QHRS	QPTS	GPA
CUMULATIVE:	14.00	13.00	51.10	3.930
	65.00	60.00	228.70	3.811

Morris

Brady Morris

SIGNATURE IS WHITE WITH A GOLD BACKGROUND.  
A RAISED SEAL IS NOT REQUIRED.

*Bart P. Quinet*

BART P. QUINET  
ASSISTANT PROVOST  
AND UNIVERSITY REGISTRAR



OFFICE OF THE UNIVERSITY REGISTRAR  
NASHVILLE, TENNESSEE 37240

# VANDERBILT UNIVERSITY

Page 2 of 2

**Name** : Brady Morris  
**Student #** : 000765620  
**Birth Date** : 08/20

Information contained in this document is confidential and should not be released to a third party without the written permission of the student.  
A black and white document is not official.

**Date:** 06/04/2023

----- NO ENTRIES BELOW THIS LINE -----



## VANDERBILT UNIVERSITY

**Morris**  
**Brady Morris**

SIGNATURE IS WHITE WITH A GOLD BACKGROUND.  
A RAISED SEAL IS NOT REQUIRED.

*Bart P. Quinet*

BART P. QUINET  
ASSISTANT PROVOST  
AND UNIVERSITY REGISTRAR



**Vanderbilt University**  
**Office of the University Registrar**  
**PMB 407701**  
**110 21st Avenue South, Suite 110**  
**Nashville, TN 37240-7701**  
**615-322-7701**  
**university.registrar@vanderbilt.edu**  
**registrar.vanderbilt.edu**

**Academic Calendar:** The academic year consists of fall and spring semesters and a summer term. The Doctor of Medicine program is offered on a year term.

**Academic Units:** Credit hours are semester hours except in the Doctor of Medicine program. Credits in the Doctor of Medicine program are course- or rotation-based.

**Accreditation:** Vanderbilt University is accredited by the Southern Association of Colleges and Schools.

**Release of Information:** This document is released at the request of the student and in accordance with the Family Educational Rights and Privacy Act of 1974. It cannot be released to a third party without the written consent of the student.

**Course Numbers (effective Fall 2015):**

0000-0799 Non-credit, non-degree courses;

do not apply to degree program

0800-0999 Courses that will eventually be given credit (e.g., study abroad)

1000-2999 Lower-level undergraduate courses

3000-4999 Upper-level undergraduate courses

5000-5999 Introductory-level graduate and professional courses (including those co-enrolled with undergraduates)

6000-7999 Intermediate-level graduate and professional courses

8000-9999 Advanced-level graduate and professional courses

Additional information on course numbering is available at registrar.vanderbilt.edu/faculty-staff/course-renumbering/.

**Course Numbers (prior to Fall 2015):**

**100- and 1000-level courses** are primarily for freshmen and sophomores. May not be taken for graduate credit.

**200- and 2000-level courses** are normally for juniors and seniors. Selected courses may be taken for graduate credit.

**300-, 3000-, and above-level courses** are for graduate and professional credit only - unless special permission is granted.

**Grading Systems:**

For information about grading systems in place prior to the dates listed, visit registrar.vanderbilt.edu/transcripts/transcript-key/.

**College of Arts and Science (A&S)**, effective Fall 1982;

**Blair School of Music (BLR)**, effective Fall 1986;

**Divinity School (DIV)**, effective Fall 1983;

**Division of Unclassified Studies (DUS)**, effective Fall 1982;

**School of Engineering (ENG)**, effective Fall 1991;

**Graduate School (GS)**, effective Fall 1992;

**Law School (LAW)**, effective Fall 1988;

**School of Medicine (MED)**, **Medical Masters and other Doctoral Programs**, effective Fall 2010;

**School of Nursing (NURS)**, effective Fall 2007;

**Peabody College (PC) undergraduate**, effective Fall 1990;

**Peabody College (PC) professional**, effective Fall 1992.

A+	4.3	LAW only
A+	4.0	Not in A&S, DIV (or BLR, PC as of Fall 2012)
A	4.0	
A-	3.7	
B+	3.3	
B	3.0	
B-	2.7	
C+	2.3	
C	2.0	
C-	1.7	
D+	1.3	Not in PC professional, NURS (or GS, MED as of Fall 2011)
D	1.0	Not in PC professional, NURS (or GS, MED as of Fall 2011)
D-	0.7	Not in PC professional, MED, NURS (or GS as of Fall 2011)
F	0.0	

**Owen Graduate School of Management (OGSM)**

<b>Master of Accountancy, effective Fall 2011.</b>		<b>All Management Programs, effective Fall 2007.</b>	
A	4.0	SP	Superior Pass 4.0
A-	3.5	HP	High Pass 3.5
B	3.0	PA	Pass 3.0
B-	2.5	LP	Low Pass 2.5
F	0.0	F	Fail 0.0

**School of Medicine (MED) Doctor of Medicine Program, effective 2003.**

H	Honors	Superior or outstanding work in all aspects.
HP	High Pass	Completely satisfactory work with some elements of superior work.
P	Pass	Completely satisfactory work in all aspects.
P*	Marginal Pass	Serious deficiencies requiring additional work (temporary grade).
F	Fail	Unsatisfactory work.

**Current and Cumulative Statistics:**

<b>EHRS</b>	Earned Hours
<b>QHRS</b>	Quality Hours
<b>QPTS</b>	Quality Points
<b>GPA</b>	Grade Point Average (calculated as GPA = QPTS/QHRS)

**Other Symbols:**

AB	Absent from final examination (temporary grade)**
AU/AD	Audit**
AW	Audit Withdrawal**
CE	Credit by Examination
CR	Credit only (no grade due)
E	Condition, with permission to retake exam (temporary grade)**
H	Incomplete in Arts and Science Honors course (temporary grade)**
	Honors in Divinity School**
I	Incomplete (temporary grade)**
IP	In Progress (temporary grade)**
LP	Low Pass (DIV, GS)**
M	Absent from final examination (temporary grade)**
MI	Absent from final examination and incomplete (temporary grade)**
NC	No credit toward current degree**
NO EQ	Transfer or study abroad coursework with no Vanderbilt equivalent
P	Pass**
PI	Permanent Incomplete (DIV, GS, LAW, MED)**
PM	Pass-Medical (GS only)
R	Repeat of previous course
RC	Previous trial of repeated course**
S	Satisfactory**
U	Unsatisfactory**
W	Withdrawal**
WF	Withdrawal while failing**
WP	Withdrawal while passing**
X	Grade unknown, hours earned awarded**

\*\* Does not affect grade point average. (Prior to Fall 2008, the AB, I, M, and MI grades were calculated as an F in A&S and PC.)

**UNIV:** Courses offered in the UNIV subject are University Courses. The University Course initiative was developed to promote new and creative trans-institutional learning. For more information, please see vu.edu/university-courses.

For changes to this key since the last revision, please visit registrar.vanderbilt.edu/transcripts/transcript-key/.

Revised 5/1/2022





# OFFICIAL TRANSCRIPT

Water Tower Campus  
820 N. Michigan Avenue  
Chicago, IL 60611

Page 1 of 4

Name: Brady Morris  
Student ID: 00001465041  
Birthdate : 08/20

Phone: (312) 915-7221

Print Date: 10/15/21

Degrees Awarded		Course	Description	Attempted	Earned	Grade	Points
Degree:	Bachelor of Business Administration	ACCT 201H	Intro Accounting I - Honors Business Honors	3.000	3.000	A	12.000
Conferral Date:	05/15/2021	BHNR 300	BHNR Seminar-Required Business Honors	0.000	0.000		0.000
Degree Honors:	Summa Cum Laude	HIST 102	Evol Wst Idea/Inst Sn 17C	3.000	3.000	A-	11.010
Degree Honors:	Honors	INFS 247H	Business Info Systems - Honors Business Honors	3.000	3.000	A	12.000
Plan:	Finance	MATH 131	Applied Calculus I	3.000	3.000	A-	11.010
Degree:	Minor	MUSC 107	Chorus University Chorale	1.000	1.000	A	4.000
Conferral Date:	05/15/2021	THEO 100	Christian Theology	3.000	3.000	A	12.000
Degree Honors:	Summa Cum Laude	UNIV 101	First Year Seminar Business Honors	1.000	1.000	P	0.000
Degree Honors:	Honors	Topic:	Business Honors				
Plan:	Political Science	Term GPA	3.876 Term Totals	17.000	17.000		62.020
Test Credits		Cum GPA	3.876 Cum Totals	17.000	20.000		62.020
Test Credits Applied Toward Undergraduate Business							
Transfer Totals:							
Beginning of Undergraduate Record							
Fall 2017							
Program:							
Undergraduate Business							

Brady Morris

Rita Vazquez, Director of Registration and Records, Registrar

AN OFFICIAL SIGNATURE IS WHITE WITH A BURGUNDY BACKGROUND





OFFICIAL TRANSCRIPT

Water Tower Campus  
820 N. Michigan Avenue  
Chicago, IL 60611

Page 2 of 4

Name: Brady Morris  
Student ID: 00001465041  
Birthdate : 08/20

Phone: (312) 915-7221

Print Date: 10/15/21

Spring 2018

Program: Undergraduate Business						Course	Description	Attempted	Earned	Grade	Points
						BHNR 300	BHNR Seminar-Required Business Honors	0.000	0.000		0.000
Course	Description	Attempted	Earned	Grade	Points						
ACCT 202H	Intro Accounting II - Honors Business Honors	3.000	3.000	A	12.000	ECON 201H	Econ Principles I - Honors Honors and Business Honors	3.000	3.000	A	12.000
BHNR 300	BHNR Seminar-Required Business Honors	0.000	0.000		0.000	ITAL 101	Italian I	3.000	3.000	A	12.000
BSAD 220	Career Preparation	2.000	2.000	A	8.000	MARK 201H	Principle of Marketing - Honor Business Honors	3.000	3.000	A	12.000
COMM 103	Bus & Profes Speaking	3.000	3.000	A	12.000	MGMT 201H	People & Organizations - Honors Business Honors	3.000	3.000	A	12.000
ISSCM 241H	Business Statistics - Honors Business Honors	3.000	3.000	A	12.000	MUSC 207	Chamber Choir	1.000	1.000	A	4.000
MUSC 107	Chorus Public Performance	1.000	1.000	A	4.000	UCSF 137	Sci. Basis Env. Issues	3.000	3.000	A	12.000
Topic: University Chorale						Term GPA	4.000 Term Totals	16.000	16.000		64.000
UCLR 100	Interpreting Literature	3.000	3.000	A	12.000	Cum GPA	3.960 Cum Totals	51.000	54.000		198.020
UCWR 110	Writing Responsibly	3.000	3.000	A	12.000						
Term GPA	4.000 Term Totals	18.000	18.000		72.000						
Cum GPA	3.942 Cum Totals	35.000	38.000		134.020						

Spring 2019

Program: Undergraduate Business						Course	Description	Attempted	Earned	Grade	Points
						CLST 277	World of Late Antiquity	3.000	3.000	A	12.000
						ENGL 290	Human Values in Lit	3.000	3.000	A	12.000
						FNAR 124	Sculpture I	3.000	3.000	A	12.000
						THEO 279	Roman Catholicism	3.000	3.000	A	12.000

Fall 2018

Program: Undergraduate Business						Course	Description	Attempted	Earned	Grade	Points
						CLST 277	World of Late Antiquity	3.000	3.000	A	12.000
						ENGL 290	Human Values in Lit	3.000	3.000	A	12.000
						FNAR 124	Sculpture I	3.000	3.000	A	12.000
						THEO 279	Roman Catholicism	3.000	3.000	A	12.000

Brady Morris

Rita Vazquez, Director of Registration and Records, Registrar

AN OFFICIAL SIGNATURE IS WHITE WITH A BURGUNDY BACKGROUND



OFFICIAL TRANSCRIPT

Water Tower Campus  
820 N. Michigan Avenue  
Chicago, IL 60611

Page 3 of 4

Name: Brady Morris  
Student ID: 00001465041  
Birthdate : 08/20

Phone: (312) 915-7221

Print Date: 10/15/21

Term GPA	4.000	Term Totals	12.000	12.000	48.000	Course	Description	Attempted	Earned	Grade	Points
Cum GPA	3.968	Cum Totals	63.000	66.000	246.020	BHNR 300	BHNR Seminar-Required Business Honors	0.000	0.000		0.000
Fall 2019											
Program:	Undergraduate Business					BSAD 343H	Business Analytics - Honors	3.000	3.000	A	12.000
						FINC 335	Investments	3.000	3.000	A	12.000
						LREB 315H	Law/Rgltry Enviro I - Honors Business Honors	3.000	3.000	A	12.000
Course	Description	Attempted	Earned	Grade	Points	Course	Description	Attempted	Earned	Grade	Points
BHNR 300	BHNR Seminar-Required Business Honors	0.000	0.000		0.000	MGMT 341H	Ethics in Business - Honors Business Honors	3.000	3.000	A	12.000
ECON 202	Econ Principles II(Macro)	3.000	3.000	A	12.000	MUSC 207	Chamber Choir	1.000	1.000	A	4.000
ENVS 224	Climate Change	3.000	3.000	A	12.000	PHIL 130	Philosophy & Persons	3.000	3.000	A	12.000
FINC 334H	Principles of Corp Finance Hon	3.000	3.000	A	12.000	PLSC 100	Political Theory	3.000	3.000	A	12.000
MARK 310	Consumer Behavior	3.000	3.000	A	12.000	Term GPA	4.000 Term Totals	19.000	19.000		76.000
MUSC 207	Chamber Choir	1.000	1.000	A	4.000	Cum GPA	3.980 Cum Totals	101.000	104.000		398.020
SCMG 332H	Operations Management - Honors Business Honors	3.000	3.000	A	12.000						
THEO 185	Christian Ethics	3.000	3.000	A	12.000						
Term GPA	4.000	Term Totals	19.000	19.000	76.000						
Cum GPA	3.976	Cum Totals	82.000	85.000	322.020						

Spring 2020

Program: Undergraduate Business

Brady Morris

Rita Vazquez, Director of Registration and Records, Registrar

AN OFFICIAL SIGNATURE IS WHITE WITH A BURGUNDY BACKGROUND





OFFICIAL TRANSCRIPT

Water Tower Campus  
820 N. Michigan Avenue  
Chicago, IL 60611

Page 4 of 4

Name: Brady Morris  
Student ID: 00001465041  
Birthdate : 08/20

Phone: (312) 915-7221

Print Date: 10/15/21

Fall 2020

Program: Undergraduate Business						Course	Description	Attempted	Earned	Grade	Points
						BHNR 300	BHNR Seminar-Required Business Honors	0.000	0.000		0.000
Course	Description	Attempted	Earned	Grade	Points						
BHNR 300	BHNR Seminar-Required Business Honors	0.000	0.000		0.000	FINC 347	Financial Institutions	3.000	3.000	A	12.000
						FINC 355	International Finc Mgmt Writing Intensive	3.000	3.000	A	12.000
BHNR 353	Research Practicum Business Honors, Writing Intensive, Ugrd Research	3.000	3.000	A	12.000	MGMT 304H	Strategic Management - Honors Business Honors	3.000	3.000	A-	11.010
ECON 303	Microeconomics	3.000	3.000	A	12.000						
FINC 336	Introduction to Derivatives	3.000	3.000	A	12.000						
FINC 337	Bankng Money-Capital Mark	3.000	3.000	A	12.000	PLSC 102	Int Rel Age of Globalization	3.000	3.000	A	12.000
PLSC 101	American Politics	3.000	3.000	A	12.000	PLSC 204	Conflict Management	3.000	3.000	A	12.000
PLSC 364	UN & Intrntl Organization	3.000	3.000	A	12.000	PLSC 326	Amer National Security	3.000	3.000	A	12.000
Term GPA	4.000 Term Totals	18.000	18.000		72.000	Term GPA	3.945 Term Totals	18.000	18.000		71.010
Cum GPA	3.983 Cum Totals	119.000	122.000		470.020	Cum GPA	3.978 Cum Totals	137.000	140.000		541.030

Spring 2021

						Undergraduate Career Totals					
Program: Undergraduate Business						Cum GPA:	3.978 Cum Totals	137.000	140.000		541.030

End of Transcript

Brady Morris

Rita Vazquez, Director of Registration and Records, Registrar

AN OFFICIAL SIGNATURE IS WHITE WITH A BURGUNDY BACKGROUND

Loyola University Chicago, Office of Registration and Records  
Chicago, Illinois 60611 • (312) 915-7221

### THE SEMESTER/TRIMESTER SYSTEM

A semester is approximately 16 weeks (approx. 20 weeks for graduate-level courses at the Medical Center). Not all classes meet for the entire length of the semester. After September 1987, the School of Dentistry used a 14-week trimester.

The semester credit hour equals fifty minutes of classroom activity, two fifty-minute periods of laboratory or studio work, or three to four fifty-minute periods of fieldwork or clinical experience. Credit hours are earned by passing a course.

Attempted credit hours indicate the amount of work a student attempted without reference to grade received. All grades except "W" and "AU" count as attempted credit hours.

The standard undergraduate load is 12 to 18 credit hours per semester. Beginning in the Fall of 2011, students are required to complete 120 hours with a minimum GPA of "C" (2.0) to earn their undergraduate degree. Students graduating prior to the Fall of 2011 were required to complete a minimum of 128 hours with a minimum GPA of "C" (2.0) to earn their undergraduate degree.

### THE QUARTER SYSTEM

The Graduate School of Business, the School of Dentistry (prior to September 1987), the Center for Organizational Development (as of September 1993), and the Institute of Human Relations and Industrial Relations operate on the quarter system calendar. However, credit is reported by the semester hour. Prior to the Second Summer Session 1985, basic medical science departments at the Medical Center reported in quarter hours.

### JANUARY TERM

In 2012 Loyola University Chicago introduced a condensed, intensive, two week study session.

### THE HONORS DEGREE

The honors degree indicates participation in a program requiring more extensive and independent work in the area of specialization as well as high accomplishment in regular course work. This degree is Loyola's highest form of undergraduate degree and is awarded to a minute fraction of graduates.

### THE MAGIS SCHOLAR PROGRAM

Magis Scholars participate in designated academic courses and co-curricular activities in a program combining scholarship, leadership experience and service to others.

### PARALEGAL STUDIES

Prior to the Fall 2014 the Paralegal Studies program was offered under the Graduate Career. Beginning with the Fall of 2014 the Paralegal Studies program is offered in the Undergraduate Career. The grading basis has remained consistent.

### THE GRADUATE SCHOOL

Graduate students may earn credit towards a degree by:

1. Courses numbered 400 and above.
  2. Select or approved 300-group courses.
  3. Approved law school courses at the 100- and 200-group courses.
- All above courses require a "B" or better for credit, with the permitted exemption of two grades "C" per student.

Advanced Standing/Transfer Credit may appear on the record if the courses were not taken as an undergraduate or used towards a professional or graduate degree and are appropriate to the student's program. A maximum of six semester (nine quarter) hours for a master's degree and 36 semester (54 quarter) hours for a doctoral degree may be considered at departmental discretion. The number of hours and the name of the institution appear on the transcript. Examinations for candidacy, language/research tool, and comprehensive examinations are posted "Admitted," "Passed," or "Sustained," respectively.

### ARRUPE COLLEGE

Arrupe College began admitting students in Fall, 2015 with an Associate Degree offering. Students are required to complete 61 credit hours to earn their Associate Degree.

### GRADING AND POINT SYSTEM

Prior to Fall 2004 Loyola University Chicago did not use (-) minus grades, and (+) plus added one half (5) credit points to those carried by the letter grade.

Prior to Fall 2004 the Carthage Executive Program used a high pass/fail system.

Prior to Fall 2004 Pass (P) indicated use of Pass/No Pass option and "D" quality work or better while No Pass (NP) indicated work below "D" quality.

Prior to Semester II 1978-79 P or S indicated "C" quality work or better, and NP or U work below "D" quality.

Prior to Fall Quarter 2000, the Graduate School of Business did not permit plus (+) grades and prior to 1968 reported grades numerically (1-100). Prior to academic year 1985-86, the undergraduate graduate division did not permit plus (+) grades.

### GRADING SYMBOLS

A	4 credit points
A-	3.67 credit points
B+	3.33 credit points
B	3 credit points
B-	2.67 credit points
C+	2.33 credit points
C	2 credit points
C-	1.67 credit points
D+	1.33 credit points
D	1 credit point
F	Failure in course: 0 credit points, but counts toward attempted credit hours
P or S	Pass with credit: indicates the use of the Pass/Fail or P/NP option where "P" is equivalent to work of "C" or better. NOTE: the Executive MBA (EMBA) Program, using the P/NP option, uses the "P" to indicate work equivalent to "B" or better.
NP or U	Failure without grade point penalty: indicates use of Pass/No pass option and work of a quality below "C-". Prior to Semester II 1978-79 indicates "D" quality or less. "NP" and "U" are equivalent terms.
I	Incomplete: For undergraduates a temporary grade that converts to "F" if not removed within a specified time frame. Prior to Fall 2002, the grade converted to "WF."
X	Absent from final exam. For undergraduates this is a temporary grade that must be removed within a specified time frame or will be converted to "WF." Discontinued for undergraduates Fall 2002.
W	Approved withdrawal from course. "W" does not count towards attempted credit hours or in GPA.
WF	Failure: unauthorized or late withdrawal. Prior to Fall 2002, "WF" was also assigned when grades "I" or "X" were not resolved within specific time frame. "WF" counts towards attempted credit hours and affects GPA.
AU	Audit. "AU" does not count towards attempted credit hours or affect GPA.
CR	Credit: Indicates completion of a Thesis Supervision (595), Dissertation Supervision (600), or those courses for which no credit hours are ordinarily awarded.
NC	No Credit: Indicates failure to complete a Thesis Supervision (595), Dissertation Supervision (600), or those courses for which no credit hours are ordinarily awarded.
NG	No grade submitted.
NR	No course work completed or no basis for determining a grade.

### GRADE POINT AVERAGE

Grade Point Average (GPA) is determined by dividing the total of earned credit points by the total of attempted credit hours carried, less courses designated as Pass/Fail. Grades of "P," "S," "NP," "U," "HP," and "PS" are included in hours attempted, but not for purposes of computing GPA. Grades "P," "S," "HP," and "PS" designate hours earned. Grades "I," "X" and "NR" are not computed until they have been replaced with a permanent grade. The cumulative GPA is specific to the academic career of Arrupe College, Undergraduate, Graduate, Graduate Business, or Law School. Computation of a student's cumulative GPA uses all course work attempted at Loyola to date while enrolled in a particular career, and is computed with the same formula. Grades earned at non-affiliated institutions are not computed into a Loyola student's GPA. Transfer credit counts as credit hours towards graduation but is not calculated in the GPA. Prior to Semester I 1985-86, Advanced Placement Credit was computed in the calculation of GPA.

### Explanation of Abbreviations Appearing Adjacent to Course Titles or Course Numbers

(H)	Honors course.
(M)	Courses taken through the Mundelein Exchange Program.
C	Consortium course taken for Loyola-graduate credit.
E	An "E" at the beginning of the course number indicates a course taken through the Erikson Institute for Loyola graduate credit. An "E" at the end of the course number indicates a course taken through the Carthage Executive Program for Loyola graduate credit.
(WI)	Writing Intensive.

### ACADEMIC STANDING

**Good Standing:** an undergraduate student in good standing has earned a semester GPA of 2.0 or better. Graduate students are considered in good standing unless otherwise indicated.

**Academic Probation:** students under academic probation have fallen below the required semester GPA of 2.0 and have been given a specified period to raise their GPA.

**Dropped for Poor Scholarship:** a student who fails to remove academic probation after one semester may be dropped from the university.

*Mallinckrodt College has been part of Loyola University Chicago since January 1991; Mundelein College since June 1991*

Key Revised February 10, 2020.

June 09, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to recommend Brady Morris, a rising 2L, for a clerkship in your chambers.

I had the pleasure of teaching Brady in Criminal Law during the Spring 2022 semester, during which time I got to know him well—not always the case in a large 1L class. His interest in the subject matter was evident throughout: Brady was always paying attention, always tracking the material, always ready with a correct answer when called on. He was one of the cluster of students who consistently came to office hours to talk through ideas, implications, and extensions of what we were learning. The class is more interactive than many in the 1L curriculum, involving participation in an online discussion board, one small-group discussion section, and two formative-evaluation quizzes. Brady was fully immersed in all of it. He did very well on both quizzes, showing that he was integrating and applying the material as we worked through it (rather than cramming at the end). Not surprisingly, given his undergraduate business background, Brady chose the small-group section on corporate criminal liability. It was a pleasure to see him thinking through the challenges of using criminal law as a tool to deter or respond to corporate wrongdoing without stifling legitimate business interests.

In short, Brady was terrific. I was not surprised that he earned a very good grade in Criminal Law. (The curve is pretty unforgiving, and when I looked back just now at the spreadsheet, I saw that Brady was right at the breakpoint between A and A-.) Indeed, Brady earned very good grades across the board, particularly in the spring semester and this summer's Vanderbilt in Venice program. I love seeing a student who starts out solid in the first semester move solidly into excellent territory in the second one: to me, it is a good sign of flexibility in learning. All the students tend to improve from an objective standpoint, given that all of them have more experience in law school, but the curve favors those whose acclimation to that style of learning and testing is particularly strong. Brady knows how to adapt to new learning environments—a quality that will serve him well in a clerkship.

I'd like to point out two other strong signals of the kinds of skills Brady will bring to a clerkship. One, he performed very well in Legal Writing. Two, he has earned a spot on our Journal of Transnational Law, where he will gain valuable experience in writing and editing.

Brady is also a delightful person to be around. We share an interest in music and theater, and he is fun to connect with on that level. He also has shown himself to be an active and committed member of our Law School community. Brady is involved in the International Law Society, serves as a mentor with our Co-Counsel program, and participated in Mock Trial.

Finally, Brady's career ambitions are a great match with his experience and interests. He came to Vanderbilt Law after graduating summa cum laude from Loyola University Chicago, where he earned high honors in both Finance and Political Science. He hopes to both practice at a law firm (where his business and finance background will be quite helpful) and to serve in government (ditto for political science). This summer he is interning at the Office of the General Counsel at the Tennessee Department of Environment and Conservation, getting his first taste of government legal service. I know he is very enthused about clerking for many reasons and deepening his public-service commitment is one of them.

I hope you will consider Brady Morris for a clerkship. Please do not hesitate to contact me with any questions or concerns.

Respectfully,

Terry A. Maroney  
Robert S. and Theresa L. Reder Chair in La

Terry Maroney - [terry.maroney@vanderbilt.edu](mailto:terry.maroney@vanderbilt.edu) - 615-343-3491

June 09, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to recommend Brady Morris for a clerkship. Brady has been a student in two of my classes, and I have worked with him in my role as the faculty advisor to the Vanderbilt Journal of Transnational Law. He is a talented and hard-working student with an excellent record both at Vanderbilt and as an undergraduate. I am confident that he has the skills necessary to serve as an outstanding clerk. Those skills are analytical reasoning, research and writing, and a strong work ethic. On a personal level, he is pleasant but professionally driven.

Brady has been my student in two upper-level classes: transnational litigation and public international law. In both classes his attendance was perfect, and he had clearly read carefully and thought about the material before each and every class session. He is a serious and committed student and he will be a serious and committed law clerk.

Equally important, Brady is also talented at legal reasoning. He did an impressive job with difficult material in both of my classes. Transnational litigation is a mixture of treaties, domestic statutes, foreign laws, common law, and customary international law governing topics such as discovery, service of process, pre- and post-judgment restraint of assets, enforcement of judgments, anti-suit injunctions, and so on. It is challenging material to organize and apply to new facts. Brady did very well both in class and on the final examination. Public international law is about the relationships between nation-states in areas such as foreign direct investment, trade, human rights, armed conflict, climate change, the law of the sea, and more. Here, too, Brady excelled. In this class, law and political power are closely related, which is challenging for some students. Brady wrote excellent answers to policy-oriented questions about why states do and do not comply with treaties and also to more technical questions of treaty interpretation. Across both courses, he demonstrated very strong analytical reasoning skills. His grades in my classes, as well as his overall record at Vanderbilt, are outstanding.

Brady also has the legal research and writing skills necessary to clerk at an elite level. His grades in our highly competitive legal writing program were very high. In his role as a member of the executive board of the Vanderbilt Journal of Transnational Law, he evaluates manuscripts submitted for publication. I have been impressed with his sophisticated analysis of others' writing and arguments. Finally, his work this summer at the State Department involves substantial writing and legal analysis.

I urge you to interview and hire Brady Morris. He will be a committed, personable, and extremely effective law clerk. Let me know if I can answer any questions.

Sincerely,

Ingrid (Wuerth) Brunk  
Associate Dean for Research  
Helen Strong Curry Chair in International Law  
Director, Cecil D. Branstetter Litigation & Dispute Resolution Program

Ingrid Wuerth - [ingrid.wuerth@vanderbilt.edu](mailto:ingrid.wuerth@vanderbilt.edu) - 615-322-2304

June 09, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I recommend Brady Morris for a judicial clerkship in your chambers with my highest endorsement. Brady is in equal measure intellectually curious, pragmatic, and thoughtful. As you may observe from his transcript, he is agile in his ability to engage deeply in subject matters as wide ranging as administrative law, property, and business organizations. You have no doubt received many applications, and will assuredly read many letters extolling the virtues of deserving law students. I write to share insights from his performance in my constitutional lawcourse that I hope illuminates just how sterling Brady Morris is as an emerging lawyer.

Brady is a stand-out student among stand-out students. More than any other student in my class of 66, he tackled the unenviable tasks of understanding current constitutional doctrine, identifying opportunities to ask consequential questions, and proposing workable interventions to advance the goals of equal protection while honoring the structural constraints of constitutional federalism and separation of powers. Brady excels at the almost lost arts of respecting all sides of an issue and harmonizing across disagreements without abandoning principle. I quickly came to rely on Brady as more than a student but rather as a thought partner who co-facilitated provocative, expository conversation on the promise and limits of constitutional law. Whenever I needed a student-led example of deft navigation of competing constitutional issues I turned to Brady Morris; he never disappointed.

Perhaps what makes Brady stand out most are his modesty and selflessness. Constitutional law issues have always been polemic because the resolution of any given case typically goes to the core of hard-fought rights. Brady understands that instinctively and actively seeks to avoid—and diffuses—unproductive strife in debate. I do not mean to suggest that Brady is not dispassionate or aloof; that is untrue. But what he does differently than most is focus his passion towards in depth, gimlet scrutiny of the law in search for opportunity to invite others to join his perspective. And he does so in respectful tone, careful measure, and secure knowledge of the subject material. Brady is a study in subtle humility in leadership.

He will bring all of these and more qualities as a discreet and dependable law clerk in your chambers. Brady's ability to rise to the moment required by the legal issues presented, the lives of people whom his analysis will influence, and professional duty and courtesy has few peers. He is naturally disposed toward high-quality work without ever losing sight of his obligation to the Bench to advise the appropriate outcome, and he works well both alone and in collaboration with others.

I do not take my responsibility as a professor or to the Bench lightly in recommending Brady to you. He is more than capable of any task you set before him. You will never regret having invited Brady to your chambers for you will be as enriched for having known and worked with him as we are at Vanderbilt Law School. I am, thus, quite pleased to give Brady Morris my very highest recommendation to your chambers. I look forward to his beginning the next steps in his professional development. I am available to discuss Brady's application further should you require.

With my sincerest regards,

Matthew Patrick Shaw

BRADY D. MORRIS

2902 Fremont Ct. SW, Rochester, MN 55902 | (507) 990-0647 | brady.d.morris@vanderbilt.edu

---

WRITING SAMPLE

The following writing sample was completed as part of the Vanderbilt Law 2022–23 Bass, Berry, & Sims Moot Court Competition. For the brief portion of the competition, my partner and I were assigned to write the respondent’s brief to the U.S. Supreme Court in a criminal appeal.

The respondent (Mr. Pontecorvo) was the defendant in the criminal trial, a journalist convicted of federal espionage act charges for his photography of a military base. Following Mr. Pontecorvo’s successful appeal in the Twelfth Circuit, the Supreme Court granted the government’s petition for certiorari.

I wrote the First Amendment portion of the brief attached below; I have redacted the work of my partner. In addition to this brief, we competed in two rounds of oral arguments—an on-brief and an off-brief round. All citations in the brief are in accordance with Bluebook rules.

I certify that this work is my own, and that I did not receive editing feedback on the brief.

Brady DeLane Morris



**STATEMENT OF FACTS**

On July 23, 2020, journalist Carmine Giovanni Pontecorvo led a protest in front of the controversial Air Base Avellino. (D. Avellino at \*14.) From the public roadway in front of the base, he took photographs of the far-off base and had a brief altercation with Senior Airman Mason. (D. Avellino at \*15.) Later that night, while Mr. Pontecorvo enjoyed the company of acquaintances at a friend's home, a police drone surreptitiously surveilled them through a skylight. (D. Avellino at \*17.) With this footage, Airman Mason could identify Mr. Pontecorvo (D. Avellino at \*17) and Avellino Police Department Detective Matthew Harris could later chase him down to arrest him (D. Avellino at \*18), confiscating the journalist's investigative material as evidence for his arrest.

Air Base Avellino was built in 1984 and has been designated "confidential" under 18 U.S.C. § 795 ever since, preventing unauthorized photography. (D. Avellino at \*14.) While the statute permits photography with permission, Air Base Avellino has denied every request from the public and journalists it has ever received—including over a dozen requests by Mr. Pontecorvo and yearly requests by the Avellino Times. (12th Cir. at \*58-59.) The government's operation of the base has displaced long-time residents of Avellino due to skyrocketing real estate prices, leading to public outcry. (D. Avellino at \*14.)

This discontent came to a head on July 23rd, 2020, when Mr. Pontecorvo, a journalist for the Avellino Times, led a protest march from Avellino city hall to the public road outside the base entrance. (D. Avellino at \*14.) During the peaceful demonstration, several protestors—including Mr. Pontecorvo—took pictures of the base. (D. Avellino at \*14.) The pictures taken by Mr. Pontecorvo from a public road show unknown structures on the base and primarily feature military airmen coming toward the protestors. (D. Avellino at \*18.)

Military guards, after warning the protestors to cease photography, demanded Mr. Pontecorvo turn over his camera or be subject to immediate arrest. (D. Avellino at \*15.) When Mr. Pontecorvo stood his ground, guard Airman Mason attempted unsuccessfully to arrest him, causing a brief scuffle. (D. Avellino at \*15.) Other protestors pulled Mr. Pontecorvo away, allowing the journalist to escape military detention. (D. Avellino at \*15.) The military guards then proceeded to disperse the demonstration against their base. (D. Avellino at \*16.)

### **ARGUMENT**

**I. Mr. Pontecorvo’s First Amendment rights are violated by § 795, an impermissible form of content regulation on its face and as applied, which fails to survive strict scrutiny since the law’s restrictions on speech are unnecessary and not narrowly tailored to serve the government’s compelling interest in national security.**

Our Constitution’s First Amendment guarantees that “Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble.” U.S. Const. Amend. I. In order for the government to restrict this constitutional right by employing content regulation, it must overcome a presumption of unconstitutionality by surviving a strict scrutiny analysis. *See Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163-65 (2015). A content regulation only survives strict scrutiny if it is narrowly tailored regulation necessary to serve a compelling government interest. *See id.* at 163. A regulation that is underinclusive or overinclusive is not narrowly tailored. *See Williams-Yulee v. Florida Bar*, 575 U.S. 433, 448 (2015).

Here, Congress has enacted 18 U.S.C. § 795, which authorized the President to designate certain military installations or equipment as “vital” to national security, and criminalizes making “any photograph, sketch, picture, drawing, map, or graphical representation of such...without first obtaining permission of the commanding officer.” Because this regulation only criminalizes speech depicting government infrastructure of a nature the government has

characterized as “vital,” it is presumptively unconstitutional content regulation. *See Regan v. Time, Inc.*, 468 U.S. 641, 645-46 (1984).

This Court should affirm the Twelfth Circuit’s holding finding § 795 is unconstitutional content regulation because it fails strict scrutiny on its face in lacking narrowly tailored necessity and is impermissible in application to these photographs not implicating national security.

**A. In treating photographs disparately based on their “vital” nature, § 795 is content regulation of First Amendment-protected speech, necessitating a strict scrutiny analysis.**

Laws regulating the content of speech otherwise protected under the First Amendment are subject to strict scrutiny. *See Reed*, 576 U.S. at 163-65; *Barr v. American Ass’n of Pol. Consultants, Inc.*, 140 S. Ct. 2335, 2346 (2020); *Regan*, 468 U.S. at 645-46. Photography is considered speech protected by the First Amendment’s guarantees. *See Regan*, 468 U.S. at 646-649; *Glik v. Cunniffe*, 655 F.3d 78, 82 (1st Cir. 2011); *American Civil Liberties Union of Ill. v. Alvarez*, 679 F.3d 583 (7th Cir. 2012).

A restriction on speech is a form of content regulation when the government favors the nature or message of one type of speech over another. *See, e.g., Reed*, 576 U.S. at 163-64; *Barr*, 140 S. Ct. at 2346; *Regan*, 468 U.S. at 648-49. In *Regan*, the Court considered a statute making photographs of U.S. dollar bills unlawful unless the message conveyed was newsworthy or educational. *Regan*, 468 U.S. at 648. Because whether or not a photograph was lawful depended on the Government’s determination of the newsworthy or educational nature of the message conveyed, the statute was engaging in constitutionally suspect content regulation. *See id.* Similarly, *Reed* considered a town ordinance providing different rules for signs communicating different messages, holding the ordinance was a clear form of content regulation. *See Reed*, 576 U.S. at 164. Because the “communicative content” of the sign governed its treatment, the ordinance was constitutionally suspect—no matter how rational of a way to regulate signs the

ordinance was. *See id.* at 164, 171. Finally, the *Barr* Court found a robocall regulation a form of content regulation because it allowed robocalls to collect government debt but prohibited robocalls for political or commercial purposes. 140 S. Ct. at 2346. Because the law favored speech relating to government debt collection over political or commercial speech, it exhibited a content regulation. *See id.*

The 12th Circuit correctly found the government engages in content regulation in § 795 by criminalizing the nature of only certain photographic subjects by designating them as “vital.” *See Reed*, 576 U.S. at 163-64; *Barr*, 140 S. Ct. at 2346; *Regan*, 468 U.S. at 648-49. Under § 795, it is illegal to “make any photograph” of places and items the nature of which the President has designated as “vital military and naval installations or equipment.” 18 U.S.C. § 795. As in *Regan*, where the newsworthy or educational nature of a photograph determined its legal treatment, a photograph’s nature as “vital” to defense infrastructure determines its legal treatment under § 795. *See* 468 U.S. at 648-49. Because whether the nature of a photograph is “vital” determines its legal treatment, §795 engages in content regulation like the Court identified in *Regan*. *See id.* This regulation is also like the content-regulating ordinance in *Reed*, which made different rules for signs based on their “communicative content.” *See* 576 U.S. at 163-64. Since section 795’s different treatment of photographs communicating images of defense infrastructure is like that of the temporary directional signs in *Reed*, this Court should similarly hold § 795 is content regulation. Finally, similar to *Barr*—where the government treatment favoring its own debt in policing the content of robocalls was considered content regulation—§ 795 favors photographs that do not feature defense infrastructure. *See* 140 S. Ct. at 2346. Because photographs of “vital” infrastructure are disfavored like the political robocalls in *Barr*, § 795 should similarly be considered connotationally suspect content regulation. *See id.*

Even if this Court disagrees with both the District Court and the Twelfth Circuit in their findings that this law is a form of content regulation, this Court should find the statute unconstitutional in its application to Mr. Pontecorvo. *See Regan*, 468 U.S. at 648. The First Amendment permits speech restrictions not based on content regulation that “leave open adequate alternatives for communication.” *See id.* But here, Mr. Pontecorvo, his employer, and anyone who was not a government contractor had been denied the opportunity to photograph Avellino Airbase despite their numerous requests. The statute requires permission to photograph the base, but if the base management never gives the press the opportunity to express their First Amendment views about the locally controversial base through photography from a public roadway, the government left Mr. Pontecorvo no alternative. *See id.*; § 795. The government did not offer an opportunity to photograph the base with reasonable time, place, or manner restrictions, instead it impermissibly left no adequate alternative by maintaining blanket criminalization. *See Regan*, 468 U.S. at 648. Because the government left no adequate alternative for journalists to exercise freedom of speech and press in covering this newsworthy subject—and because without these rights all our rights are at risk—this Court should hold the statute inapplicable to Mr. Pontecorvo’s societally important photography even if it does not find § 795 impermissible content regulation. *See id.*

**B. While the government may have a compelling interest in national security, § 795 fails to survive strict scrutiny on its face because is neither necessary nor narrowly tailored to accomplish this goal.**

Laws subject to strict scrutiny, including those which impose restrictions on speech through content regulation, are “presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Reed*, 576 U.S. at 163. As applied to the public, national security may generally be a compelling government interest for regulation. *See generally Snepp v. United States*, 444 U.S. 507 (1980);

*Haig v. Agee*, 453 U.S. 280, 308 (1981); *United States v. Reynolds*, 345 U.S. 1, 10-11 (1953).

However, the government’s purpose in protecting national security does not shield it from the remainder of a strict scrutiny analysis. *See Reed*, 576 U.S. at 164-165. A regulation is narrowly tailored if it is neither underinclusive nor overinclusive in the restrictions it imposes to achieve the compelling interest. *See Williams-Yulee*, 575 U.S. at 448; *R.A.V. v. City of St. Paul*, 505 U.S. 377, 395 (1992); *City of Laude v. Gilleo*, 512 U.S. 43 (1994).

A regulation is underinclusive if it is not necessary to achieve the government’s compelling interest. *See R.A.V.*, 505 U.S. at 395-96; *Reed*, 576 U.S. at 171; *Williams-Yulee*, 575 U.S. at 449; *Laude*, 512 U.S. at 51 (“the notion that a regulation of speech may be impermissibly underinclusive is firmly grounded in basic First Amendment principles.”). In *R.A.V.*, the Court considered a city ordinance ban on “fighting words” that restricted hate speech against certain categories like race, religion, or gender, but left other categories of hate speech—like that discriminating against sexual orientation—unrestricted. 505 U.S. at 391. The Court held the content restriction unconstitutional because the statute was not reasonably necessary to achieve the city’s compelling interest, reasoning that “the existence of adequate content-neutral alternatives thus ‘undercut[s] significantly’ any defense of such a statute.” *See id.* at 395-96. The *Reed* Court similarly held an ordinance limiting temporary directional signs unconstitutional for being “hopelessly underinclusive” because the town restricted certain signs, “while at the same time allowing unlimited numbers of other types of signs that create the same problem.” 576 U.S. at 171-72. Because the town allowed some types of similarly problematic signs while prohibiting others without showing the restriction was necessary to achieve its interest in eliminating traffic safety hazards, the regulation was unconstitutionally underinclusive. *Id.* at 171-72. In contrast, *Williams-Yulee* held a content regulation survived strict scrutiny underinclusivity concerns

because it was “not riddled with exceptions,” but rather “the solicitation ban aims squarely at the conduct most likely to undermine” the compelling government interest. 575 U.S. at 449.

A regulation is overinclusive if it reduces to a single dispositive factor. *See Gratz v. Bollinger*, 539 U.S. 244 (2003); *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007). The *Gratz* Court considered the constitutionality of the University of Michigan’s one-hundred-point acceptance threshold for its undergraduate admission scheme, which automatically distributed twenty points to racially underrepresented applicants. 539 U.S. at 255. This Court held that this plan was not narrowly tailored because race was the decisive admission factor for almost every qualified minority applicant, not a wholistic review. *Id.* at 270-73. Similarly, the *Parents Involved* Court held school assignment plans were unconstitutional because race was the decisive factor by itself whenever it came into play in the assignment scheme. 551 U.S. at 723. Because race was not one factor weighed among others, but the dispositive factor, the government action was unconstitutional under strict scrutiny. *See id.*

A regulation may also be overbroad if it criminalizes otherwise constitutionally protected activity. *See Smith v. City of Cumming*, 212 F.3d 1332, 1333 (11th Cir. 2000); *Robinson v. Fetterman*, 378 F.Supp.2d 534, 541 (E.D. Pa. 2005). In *Smith*, the Eleventh Circuit held that “the right to gather information about what public officials do on public property, and specifically, a right to record matters of public interest” is constitutionally protected by the First Amendment. 212 F.3d at 1333. The First Circuit has also upheld this constitutional right, holding that “gathering information” about police officers or government officials “in a form that can readily be disseminated to others serves a cardinal First Amendment interest.” *See Glik*, 655 F.3d at 82. The *Robison* court similarly held that the First Amendment protected a person’s right to video police officers on duty after Mr. Robinson was arrested for filming officers that he believed to be

unsafe. 378 F.Supp.2d at 541. The court also expressed concerns that the police actions in confiscating the tape and preventing future taping or publishing of the tapes was unconstitutional prior restraint. *Id.* Because the court found Mr. Robinson had a First Amendment right to record officers on duty, it awarded him compensatory and punitive damages. *See id.* at 546.

1. Section 795 fails strict scrutiny on its face because it is both fatally underinclusive and overinclusive.

The 12th Circuit correctly held that the statute is underinclusive because § 795's mode of content regulation is not necessary to achieve the national security interest. *See R.A.V.*, 505 U.S. at 395-96; *Reed*, 576 U.S. at 171; *Williams-Yulee*, 575 U.S. at 449; *Laude*, 512 U.S. at 51. Like the restriction in *R.A.V.* which was fatally underinclusive because the ordinance was not necessary in light of content-neutral alternative regulations, § 795's restriction on all photography is not necessary to achieve the government's interest in safeguarding national security. *See* 505 U.S. at 395-96. The government argues that criminalizing all photographs (even those taken from a public roadway) is the least restrictive means to protect its national security interest; but a regulation that would turn a passerby into a criminal for snapping a picture of an attention-drawing military base on their cellphone camera hardly seems like the least restrictive means of accomplishing national security. Less restrictive means are reasonably available to safeguard national security: the government may alternatively protect vital information by building opaque fences around secret areas and equipment, closing public roads far enough away from critical bases to prevent public views of sensitive activity, and instituting reasonable no fly zones around the base to prevent arial photography. Since all of these easily conceivable means would achieve the same compelling government interest in national security without infringing on the fundamental First Amendment rights of American citizens and journalists, the government has not selected the least restrictive means narrowly tailored to its



interest—rendering the statute unconstitutional under strict scrutiny. *See id.* The fact that there are many reasonable, less-restrictive alternative means show that this is not a failure of “perfect tailoring,” but an unconstitutional failure to narrowly tailor the First Amendment restriction as required. *See Williams-Yulee*, 575 U.S. at 454.

Further, as in *Reed* and *Williams-Yulee*, this statute neglects to regulate other forms of content that create the same problem, rendering it “riddled with exceptions.” *See id.*; *Reed*, 576 at 171-72. As the Twelfth Circuit correctly noted, that § 795 criminalizes photographs and sketches but not collecting the same information via GPS data, rangefinders, binoculars, and human observations renders it impermissibly underinclusive. *See Williams-Yulee*, 575 U.S. at 454; *Reed*, 576 U.S. at 171-72. (12th Cir. at \*56-58.) The government may not take a shortcut through our constitutional rights in the name of efficiency or cost-effectiveness.

The Twelfth Circuit also correctly found § 795 overinclusive because a non-wholistic content review for “vital” nature is always the dispositive factor. *See Gratz*, 539 U.S. 244; *Parents Involved*, 551 U.S. 701. This statute makes it criminal to “make any photograph, sketch, picture, drawing, map, or graphical representation” of such bases, and the sole dispositive factor is that any visual media represents the “vital” base in some way. This dispositive factor makes § 795 similar to the unconstitutional affirmative action education policies in *Gratz* and *Parents Involved*. *See, Gratz*, 539 U.S. 244; *Parents Involved*, 551 U.S. 701. Despite the interest being national security, the visual representation need not put national security at risk to be criminal under this statute. A non-threatening photograph incidentally including the base taken a mile away is treated the same as a photo taken inside the base; this single dispositive factor analysis renders the content regulation unconstitutional. *See Gratz*, 539 U.S. 244; *Parents Involved*, 551 U.S. 701.

Finally, section § 795 is also impermissibly broad because it precludes the exercise of the right to film public officials on duty from public land, a “cardinal First Amendment interest.” *See Smith*, 212 F.3d at 1333; *Glik*, 655 F.3d at 82; *Robinson*, 378 F.Supp.2d at 541. As in *Robinson*, this statute would permit the arrest of persons exercising their First Amendment right to record officials on duty. *Robinson*, 378 F.Supp.2d at 541. The government might properly choose to criminalize taking photos from inside “vital” installations, but a statute so overbroad as to make a criminal out of anyone taking photos of certain bases from anywhere—including from public roads and of content that may not implicate national security—is unconstitutional and may even be absurd. *See id.*; *Williams-Yulee*, 575 U.S. at 449. *Cf. Texas Brine Co., L.L.C. v. American Arbitration Ass’n, Inc.*, 955 F.3d 482, 486 (5th Cir. 2020) (statutes that lead to absurd results in application defeat Congress’s intent).

1. § 795 is also unconstitutional in its application to Mr. Pontecorvo, even if it is not unconstitutional on its face.

Because national security is not implicated in Mr. Pontecorvo’s case, there is no compelling government interest as applied that permits the government’s content regulation to survive strict scrutiny. *See Reed*, 576 U.S. at 163. It is the rightful purpose of the government to protect its people, but the phrase “national security” cannot be accepted as a compelling interest in each case without investigation. *Cf. Ellsberg v. Mitchell*, 709 F.2d 51, 60-61 (D.C. Cir. 1983) (explaining that the government, when it invokes national security, should be compelled to provide more explanation of why national security would be damaged). In this case, the record reveals the government has not and cannot show this photography implicates American national security. If a government doesn’t want people to take pictures of “vital” defense infrastructure from a public road, it might consider securing any national security sensitive implements behind the cover of benign buildings to prevent onlookers from seeing things that would create a

national security risk. This is exactly what the government has done here. (D. Avellino at \*18.) Anything that the average citizen can see from the public road, any of our nation’s adversaries can see from a public road as well; that the government knows this explains why Mr. Pontecorvo captured nothing implicating the national defense from his public vantage point—there was nothing to capture, because the government has wisely hidden its secrets. That is why the government has admitted Mr. Pontecorvo’s photographs were “unrevealing as to military secrets.” (D. Avellino at \*18.)

Section 795 also fails strict scrutiny because it is overinclusive as applied to Mr. Pontecorvo’s case, in that it extinguishes a previously recognized First Amendment right to record public officials. *See Smith*, 212 F.3d at 1333; *Glik*, 655 F.3d at 82; *Robinson*, 378 F.Supp.2d at 541. Not only did Mr. Pontecorvo have the same First Amendment recording rights as the citizen in *Robinson*, Mr. Pontecorvo was also protected by the freedom of the press, covering the event for the Avellino Times. *See Robinson*, 378 F.Supp.2d at 541. (D. Avellino at \*14.) Because § 795 would criminalize Mr. Pontecorvo’s first amendment rights of speech and press, it is fatally overinclusive as applied. *See Smith*, 212 F.3d at 1333; *Glik*, 655 F.3d at 82; *Robinson*, 378 F.Supp.2d at 541.

Finally, this statute, which as applied could result in the government jailing a journalist for photographing military guards coming to quash a protest against their airbase (a photograph taken from a public road), is an absurd result. *See Texas Brine Co.*, 955 F.3d at 486; (D. Avellino at \*14-16.) “The vice of content-based legislation...is not that it is always used for invidious, thought-control purposes, but that it lends itself to use for those purposes.” *Reed*, 576 U.S. at 167 (quoting *Hill v. Colorado*, 530 U.S. 703, 743 (2000) (Scalia, J., dissenting)). In using § 795’s content restrictions to prevent the public from seeing important journalistic photographs such as

Brady Morris—Writing Sample

these—photographs that do not implicate national security interests—and to convict a journalist, the government would lend the statute to such invidious purposes. *See id.* Circumventing our Constitution, through this content regulation “the government might seek to select the “permissible subjects for public debate” and thereby to “control...the search for political truth.” *Laude*, 512 U.S. at 51 (quoting *Consolidated Edison Co. of N.Y. v. Public Serv. Comm'n of N.Y.*, 447 U.S. 530, 538 (1980)). Holding § 795 unconstitutional avoids this absurd and dangerous result.

## Applicant Details

First Name **Nabilah**  
 Last Name **Nathani**  
 Citizenship Status **U. S. Citizen**  
 Email Address [nnatha4@illinois.edu](mailto:nnatha4@illinois.edu)  
 Address

### Address

Street  
**311 East John Street**  
 City  
**Champaign**  
 State/Territory  
**Illinois**  
 Zip  
**61820**  
 Country  
**United States**

Contact Phone Number **4693605675**

## Applicant Education

BA/BS From **University of Texas-Dallas**  
 Date of BA/BS **May 2018**  
 JD/LLB From **University of Illinois, College of Law**  
[http://www.nalplawsonline.org/ndlsdir\\_search\\_results.asp](http://www.nalplawsonline.org/ndlsdir_search_results.asp)  
 Date of JD/LLB **May 14, 2023**  
 Class Rank **I am not ranked**  
 Law Review/Journal **Yes**  
 Journal(s) **Comparative Labor Law and Policy Journal**  
**Elder Law Journal**  
 Moot Court Experience **No**

## Bar Admission

## Prior Judicial Experience

Judicial Internships/  
Externships      **Yes**  
Post-graduate Judicial  
Law Clerk      **Yes**

### **Specialized Work Experience**

### **Professional Organization**

Organizations      **Just The Beginning Foundation**

### **Recommenders**

Moritz, Shannon  
smmoritz@illinois.edu  
(217) 244-7912

Lawless, Robert  
rlawless@illinois.edu

Kaplan, Richard  
rkaplan@illinois.edu  
(217) 265-6522

**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

**Nabilah Nathani**

311 East John Street, Champaign IL 61820 | (469)-360-5675 | nnatha4@illinois.edu

March 27, 2023

The Honorable Jamar K. Walker  
United States District Court for the Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510

Dear Judge Walker,

I am a third-year law student at the University of Illinois College of Law. I am writing to apply for a clerkship in your chambers beginning in fall 2024. As a student passionate about equity, justice, and complex litigation, I see no better place to continue my legal career than in a judicial and legislative hub of the United States – Norfolk, Virginia, particularly given my long-term desire to remain on the East Coast. Since beginning law school, I have worked for several different courts, and I will be clerking for the New Jersey Tax Court after graduation this spring. I would welcome the opportunity to contribute those experiences to your chambers.

My professional experiences have revealed that I find particular success in a collaborative environment and have inspired me to foster a collegial atmosphere everywhere I go. My time at a legal aid organization was among my most rewarding work, reassuring me that assisting litigants in the pursuit of justice is my long-term goal. At the City of Chicago's Law Department, I learned to solve complex problems through focused, synthesized legal analysis. By working with Judge Gunn of the Bankruptcy Court for the District of Columbia, Judge Thorne of the Bankruptcy Court for the Northern District of Illinois, and Justice Cunningham at the Illinois State Appellate Court, I honed my research abilities and knowledge in both civil and criminal law.

I have enhanced my interest in litigation and federal service by externing at the Department of Justice, where I have drafted motions, reviewed briefs, and conducted substantive research in both criminal and civil matters. Through my work at the Office of University Counsel, I have prepared policy statements and other memoranda, developed an understanding of complex legal strategy, and gained an appreciation for the unique legal challenges facing the University. Along with these experiences, I have cultivated my writing skills and attention to detail by serving as the Executive Administrative Editor of *The Elder Law Journal*, as a Graduate Writing Consultant at Writers Workshop, as a student editorial assistant of *The Comparative Labor Law & Policy Journal*, and as an instructor for internationally trained lawyers specializing in legal research and writing. This expertise has shaped my ambition to become a creative, diligent, and goal-oriented law clerk.

After graduation, I will clerk for Judge Novin of the New Jersey Tax Court, where I intend to deepen my understanding of litigation and strategy and further develop my research and writing skills. I plan to use this opportunity to provide value to your chambers as a clerk. Attached for your review are my resume, law school transcript, and writing samples. Letters of recommendation from Professor Richard Kaplan (rkaplan@illinois.edu) and Professor Robert Lawless (rlawless@illinois.edu) will be sent under separate cover.

Thank you for considering my application. Please feel free to contact me for any additional information.

Respectfully,  
Nabilah Nathani

## Nabilah Nathani

311 East John Street, Champaign, IL 61820 | (469) 360-5675 | nnatha4@illinois.edu

### EDUCATION

#### UNIVERSITY OF ILLINOIS COLLEGE OF LAW | Champaign, IL

*Juris Doctor Candidate*

May 2023

- The University of Illinois Elder Law Journal, Executive Administrative Editor (2022–23)
- Cite Checker, *Comparative Labor Law & Policy Journal*
- University of Illinois Writer's Workshop, Graduate Writing Consultant
- Corporate and Business Law Association, Member; OUTLaw, Social Media Chair
- Bankruptcy Law Society, Duberstein Moot Court Competition Chair
- Illinois Business Consulting, Learning and Development, Project Manager (2020–22)
- Adjunct Instructor – Legal Research and Writing for LLM Students (Summer 2022)
- Research Assistant for Professor Jeremy McClane (Summer 2021)
- Jessica Guarino, Nabilah Nathani, and E. Bryan Endres, *What the Judge Ate for Breakfast: Reasonable Consumer Challenges in Misleading Food Labeling Claims*, 31 LOY. CONSUMER L. REV. (2023) (forthcoming).
- Nabilah Nathani, Jessica Guarino, and E. Bryan Endres, *Restaurant Responses to Food Allergies*, 3 ILL. ST. B. A. FOOD L. 1 (2023).

#### THE UNIVERSITY OF TEXAS AT DALLAS | Richardson, TX

*Bachelor of Science in Psychology and Bachelor of Arts in Literature*

May 2018

- Research Assistant, *Healthy Development Project* (Dr. Shayla Holub)
- Teaching Assistant, *Positive Psychology* (Dr. Joanna Gentsch)

### WORK EXPERIENCE

#### NEW JERSEY STATE TAX COURT | Newark, NJ

*Judicial Law Clerk for the Honorable Joshua Novin*

August 2023

#### U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE U.S. TRUSTEE | Chicago, IL

*Law Clerk*

January 2023–Present

- Research bankruptcy issues; review and summarize briefs; draft memoranda summarizing research; observe hearings

#### U.S. DEPARTMENT OF JUSTICE, TAX DIVISION | Dallas, TX

*Law Clerk*

January 2023–Present

- Research tax issues in both a civil and criminal context; review and summarize briefs; draft memoranda summarizing research

#### OFFICE OF UNIVERSITY COUNSEL UNIVERSITY OF ILLINOIS SYSTEM | Champaign, IL

*Law Clerk*

January 2023–Present

- Research substantive transactional issues; draft memoranda summarizing research; draft legislation; review contracts

#### ILLINOIS STATE APPELLATE COURT | Chicago, IL

*Judicial Extern for the Honorable Joy Cunningham*

September 2022–December 2022

- Reviewed and summarized appellate briefs; drafted memoranda summarizing research

#### U.S. BANKRUPTCY COURT FOR THE DISTRICT OF COLUMBIA | Washington, DC

*Judicial Extern for the Honorable Elizabeth Gunn*

August 2022–November 2022

- Researched bankruptcy laws; drafted memoranda and discussed legal aspects and strategy with the Judge and her clerks

#### CITY OF CHICAGO DEPARTMENT OF LAW, REVENUE LITIGATION DIVISION | Chicago, IL

*Law Clerk*

June 2022–August 2022

- Conducted research and prepared memoranda concerning state and local tax matters, including property taxes, city tax ordinances, and general litigation strategy; drafted motions to dismiss, motions to stay, settlement agreements, and debt petitions

#### DEPARTMENT OF AGRICULTURAL AND CONSUMER ECONOMICS, UIUC | Champaign, IL

*Graduate Research Assistant*

February 2022–Present

- Research consumer protection and food policy laws to prepare a draft for publication in various law reviews

#### LAND OF LINCOLN LEGAL AID | Champaign, IL

*Law Clerk*

January 2022–April 2022

- Researched laws and drafted memoranda, particularly on bankruptcy, state and local tax, and probate issues

#### U.S. BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ILLINOIS | Chicago, IL

*Judicial Extern for the Honorable Deborah Thorne*

May 2021–July 2021

- Researched bankruptcy laws; drafted memoranda and discussed legal aspects and strategy with the Judge and her clerk


### LANGUAGES AND INTERESTS

Languages: Hindi (fluent), Urdu (fluent); Interests: swimming; running; volunteering in nursing homes and soup kitchens



## Academic History


655665887 Nabilah S. Nathani  
Jan 06, 2022 05:02 pm

 To **print your University of Illinois academic history**, follow the print instructions for your web browser as you would to print any web page. For example, with Internet Explorer, select the Print option from the File menu.

In the Degree Information section, you may see multiple sought degree records. To view your current degree, click on the View Student Information link at the bottom of the page.



Note: Academic standing is reviewed by your college and is subject to change.

 This is NOT an Official Transcript.

[Institution Credit](#)   [Transcript Totals](#)   [Courses in Progress](#)

### Transcript Data

#### STUDENT INFORMATION

**Name :** Nabilah S. Nathani  
**Birth Date:** Dec 15, 1997

#### Curriculum Information

#### Most Recent Program(s)

**College:** Law  
**Major and Department:** Law, Law

\*\*\*This is NOT an Official Transcript\*\*\*

#### INSTITUTION CREDIT [-Top-](#)

**Term: Fall 2020 - Urbana-Champaign**

**College:** Law  
**Major:** Law  
**Academic Standing:** Not Calculated or Unknown

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	602	1L	Property	B	4.000	12.00	
LAW	603	1L	Torts	B-	4.000	10.68	
LAW	607	1L	Civil Procedure	B	4.000	12.00	
LAW	609	1L	Legal Writing & Analysis	B	2.000	6.00	
LAW	627	1L	Legal Research	C+	1.000	2.33	

#### Term Totals (Law - Urbana-Champaign)

**Attempt Passed Earned GPA Quality GPA**

1/6/22, 5:02 PM

Academic History; View Academic History Select Level and Type; ...; Registration and Records Tab

	Hours	Hours	Hours	Hours	Points	
<b>Current Term:</b>	15.000	15.000	15.000	15.000	43.01	2.86
<b>Cumulative:</b>	15.000	15.000	15.000	15.000	43.01	2.86

⚠ This is NOT an  
Official Transcript.

**Term: Spring 2021 - Urbana-Champaign**

**College:** Law  
**Major:** Law  
**Academic Standing:** Not Calculated or Unknown

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	601	1L	Contracts	B	4.000	12.00	
LAW	604	1L	Criminal Law	B-	4.000	10.68	
LAW	606	1L	Constitutional Law I	B-	4.000	10.68	
LAW	610	1L	Introduction to Advocacy	C+	3.000	6.99	
LAW	792	1L	Fund of Legal Practice	S	1.000	0.00	

**Term Totals (Law - Urbana-Champaign)**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term:</b>	16.000	16.000	16.000	15.000	40.35	2.69
<b>Cumulative:</b>	31.000	31.000	31.000	30.000	83.36	2.77

⚠ This is NOT an  
Official Transcript.

**Term: Fall 2021 - Urbana-Champaign**

**College:** Law  
**Major:** Law  
**Academic Standing:**

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	600	1L	Pro Bono Service	S	0.000	0.00	
LAW	629	1L	Bankruptcy	C	3.000	6.00	
LAW	633	1L	Business Associations I	B+	3.000	9.99	
LAW	647	1L	Income Taxation	B+	4.000	13.32	
LAW	692	1L	Summer/Fall Externships	S	4.000	0.00	
LAW	696	1L	Elder Law Journal	S	1.000	0.00	
LAW	792	1L	Oil & Gas Law I	B-	3.000	8.01	

**Term Totals (Law - Urbana-Champaign)**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Current Term:</b>	18.000	18.000	18.000	13.000	37.32	2.87
<b>Cumulative:</b>	49.000	49.000	49.000	43.000	120.68	2.80

⚠ This is NOT an  
Official Transcript.

**TRANSCRIPT TOTALS (LAW - URBANA-CHAMPAIGN) -Top-**

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
<b>Total Institution:</b>	49.000	49.000	49.000	43.000	120.68	2.80
<b>Total Transfer:</b>	0.000	0.000	0.000	0.000	0.00	0.00
<b>Overall:</b>	49.000	49.000	49.000	43.000	120.68	2.80

1/6/22, 5:02 PM

Academic History; View Academic History Select Level and Type; ...; Registration and Records Tab

⚠ This is NOT an  
Official Transcript.

**COURSES IN PROGRESS** [-Top-](#)

**Term:** Spring 2022 - Urbana-Champaign

**College:** Law

**Major:** Law

Subject	Course	Level	Title	Credit Hours
LAW	615	1L	Administrative Law	3.000
LAW	631	1L	Secured Transactions	3.000
LAW	680	1L	Professional Responsibility	3.000
LAW	696	1L	Elder Law Journal	1.000
LAW	792	1L	Law & Literature	2.000
LAW	794	1L	State and Local Taxation	3.000
LAW	794	1L	Financial Acctg for Lawyers	1.000

⚠ This is NOT an  
Official Transcript.

**RELEASE: 8.7.1**

© 2022 Ellucian Company L.P. and its affiliates.

University of Illinois College of Law  
504 E. Pennsylvania Ave.  
Champaign, IL 61820

March 27, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to recommend Nabilah Nathani for a clerkship in your chambers following her graduation from the University of Illinois College of Law.

I have worked with Nabilah in several different capacities during her time at the College of Law. I first got to know her when she was a student in my Legal Writing & Analysis and Introduction to Advocacy courses during her first year of law school. During the summer after her second year, she worked as an adjunct instructor in a course for which I was the supervising writing professor. This course, Law 500: LL.M. Legal Writing & Research, is a required course for all LL.M. students at the College of Law. During her time both as my student and as an adjunct instructor under my supervision, Nabilah demonstrated that she has strong legal skills, is extremely hardworking, and is tremendously enthusiastic about learning and teaching others about the law. As a result, I believe she would be a terrific judicial clerk.

Nabilah's enthusiasm for learning about the law is evidenced by her wide and varied work experience. This semester she is externing for two U.S. Department of Justice divisions, the Trustee's Office and the Tax Division, as well as for the University Counsel's Office at the University of Illinois. During her time as a law student she has also externed with judges on the Illinois Appellate Court and two U.S. Bankruptcy courts, worked as a law clerk with the Land of Lincoln Legal Aid and the City of Chicago Law Department, and served as a research assistant for a College of Law professor and for the Department of Agricultural and Consumer Economics.

Nabilah also has a strong interest in teaching and engaging with others about the law. She did so with great success as an adjunct instructor in Law 500, in which she worked closely with a small section of LL.M. students to reinforce key legal research and writing concepts. In this role she also became a trusted mentor to many of her students. In addition, she currently holds the important position of Executive Administrative Editor of the University of Illinois Elder Law Journal.

Nabilah is a bright, highly motivated member of the College of Law community who is dedicated to learning about the law. I believe she would be a very good judicial clerk. If I can provide any additional information or answer any questions, please do not hesitate to contact me at (217) 333-1046.

Very truly yours,

Shannon M. Moritz  
Director of Legal Writing

Shannon Moritz - smmoritz@illinois.edu - (217) 244-7912

University of Illinois College of Law  
504 E. Pennsylvania Ave.  
Champaign, IL 61820

March 27, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

This letter is written in support of Nabilah Nathani's application for a judicial clerkship in your chambers. Nabilah took my Bankruptcy course in the fall of 2021 and my Secured Transactions course this past semester. In addition, I have spoken with Nabilah outside the classroom on many occasions about her professional interests.

Even before she took my classes, Nabilah first came to my attention when she was mentioned in a positive light by the federal bankruptcy judge for whom she was externing in the summer after her 1L year. Almost immediately at the start of the following semester, Nabilah requested a meeting to discuss a project she was working on about diversity in the federal bankruptcy bench. Even at this early stage of her career, Nabilah has a strong commitment to improving the diversity of our profession in a way that makes me optimistic for the future.

Nabilah is passionate about bankruptcy law. She participates in our student-run Bankruptcy Law Society and was co-chair for this year's ABI Duberstein Moot Court Competition. The latter activity is especially telling because our law school, quite unfortunately, does not provide any official support or academic credit for the Duberstein competition. The students who participate do so out of personal interest in the subject matter and desire to learn more about the area.

In class, Nabilah actively participates and especially on the online discussion boards that have stuck around even after we went back to in-person classes. One of the things that I appreciate most about Nabilah as a student is that she asks questions. Too many students only raise their hand or post online to show they know the answer (but often only end up demonstrating that they thought they knew the answer). Nabilah has an inquiring mind and wants to learn. Many of her online posts lay out her understanding of some point of law with the question whether she understands it correctly. It is exactly the sort of intellectual exchange that should be happening in law school.

Nabilah is also very hard-working and professional. In my memory, she never missed class except because of illness and, even on those few occasions, emailed in advance to let me know she would not be there. Recently, an opportunity crossed my desk looking for a student to help with editing a forthcoming volume for the ABI. It was only a volunteer position, and I was not sure any students would be interested. Figuring it could not hurt, I sent it to our Bankruptcy Law Society and within minutes, Nabilah had seized the opportunity. It again was a testament to her work ethic as well as her interest in pursuing a career in bankruptcy law.

I hope this letter is helpful to you in choosing from among the many qualified applications you must receive. If I can be of further assistance, please do not hesitate to contact me at 217-244-6714 or [rlawless@illinois.edu](mailto:rlawless@illinois.edu).

Sincerely,

Robert M. Lawless  
Max L. Rowe Professor of Law

Robert Lawless - [rlawless@illinois.edu](mailto:rlawless@illinois.edu)

University of Illinois College of Law  
504 E. Pennsylvania Ave.  
Champaign, IL 61820

March 27, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am very pleased to recommend Nabilah Nathani who has applied for a clerkship in your chambers. Ms. Nathani was a student in my large-enrollment course on Income Taxation during the Fall 2021 semester, earning a grade of B+ on the basis of the final examination in that course.

Like most students after the first year of law school, Ms. Nathani did not volunteer in class but she seemed prepared whenever I called on her. During our office meetings, she clearly demonstrated that she had read the assigned materials carefully and genuinely wanted to understand the concepts thoroughly.

Ms. Nathani is exceptionally career-oriented and focused on how every professional opportunity can advance her development as a lawyer. To take just one example, our Income Tax class had barely begun when she came to my office to discuss what she should do to ensure acceptance in an LL.M.-in-Taxation program after graduation.

Given her seriousness of purpose, I would expect Ms. Nathani to be particularly conscientious and dependable as a law clerk and to go the extra mile whenever possible.

Let me add that in my encounters with Ms. Nathani, she has been unfailingly polite and respectful of others' time. She may occasionally come off as a bit formal, but I believe this posture reflects her determination to succeed and is an attribute to be admired.

If you have any questions about Ms. Nathani, please contact me directly at (217) 333-2499 or [rkaplan@illinois.edu](mailto:rkaplan@illinois.edu).

Sincerely yours,

Richard L. Kaplan  
Guy Raymond Jones Chair in Law

Richard Kaplan - [rkaplan@illinois.edu](mailto:rkaplan@illinois.edu) - (217) 265-6522

## Nabilah Nathani

834 South Miller Street, Chicago, IL 60607 | (469)-360-5675 | nnatha4@illinois.edu

### Writing Sample

Attached please find a copy of an appellate brief, which was created in the course of an Introduction to Legal Advocacy class. As a part of the assignment, I was required to argue in support of reversal of a decision to grant summary judgement. The document has been excerpted to exclude all other elements of the appellate brief, save the argument section. The entire document is available upon request.

ARGUMENT

**I. This Court should reverse the decision of the District Court granting summary judgment under the FMLA because a supervisor at a public agency can be subject to individual liability.**

Based on the relevant caselaw and plain language found in the FMLA, a supervisor at a public agency is subject to individual liability. Under the FMLA, the term “employer” refers to:

- (i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;
- (ii) includes –
  - (I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and
  - (II) any successor in interest of an employer;
- (iii) includes any “public agency”, as defined in section 3(x) of the Fair Labor Standards Act of 1938; and
- (iv) includes the General Accounting Office and the Library of Congress.

29 U.S.C. § 2611(4)(A)(1993). There is currently a split in authority regarding whether individuals working for agencies can be held liable under the FMLA, as seen in cases across multiple circuit courts, with the Fifth, Eighth, and Third Circuits recognizing that that public agencies are subject to liability, and with the Sixth and Eleventh Circuits not recognizing it. Haybarger v. Lawrence Cnty. Adult Prob. & Parole, 667 F.3d 408, 415 (3d Cir. 2012). This Court has not decided on this issue, but has previously decided that individual supervisors at public agencies may be subject to liability. Kerr v. Marshall Univ. Bd. of Governors, 824 F.3d 62, 83 (4th Cir. 2016).



According to the FMLA, liability can be attached to any supervisor who is acting in the interest of an employer. 29 U.S.C. § 2611(4)(A)(i)-(iii); 29 U.S.C § 203(e)(B). Individual liability and public agency provisions are not material and distinct. Modica v. Taylor, 465 F.3d 174 (5th Cir. 2006). As a matter of policy, the FMLA should permit all managers and supervisors to be held liable if they have violated it. It is for these reasons that this Court should reverse the decision of the District Court.

**A. Liability can be attached to any public agency supervisor who is acting in the interest of an employer, according to the plain language of the FMLA itself, as well as the language of the FLSA.**

Public agency supervisors are subject to individual liability under the FMLA, due to their roles as employers under definitions provided by the statute itself, as well as its structure. According to the FMLA, an employer is anyone “who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer,” and includes any “public agency,” which is indicative of congressional intent to attach individual liability to supervisors. 29 U.S.C. § 2611(4)(ii)(A)(1993). Had this subsection included parties other than the employer, it would have contributed nothing to the definition of the term and would be rendered unnecessary. Haybarger, 667 F.3d at 412. The second subsection (iii) explicitly indicates that the term “employer” extends to public agencies. 29 U.S.C. § 2611(4)(A)(iii) (1993). Therefore, a clear reading of this paragraph stipulates that individuals at a public agency may be employers if they act directly or indirectly in the interest of their employer. Modica, 469 F.3d at 184.

The grammatical structure of the statute may also play a role in its interpretation. Paragraph 4(A)'s organization insinuates that each subsection modifies the term "employer", while not modifying the additional subsections. Morrow v. Putnam, 142 F. Supp. 2d 1271, 1274 (D. Nev. 2001). The emdash following the term "employer" indicates a relationship between the clauses such that the term "employer" is modified by "means" in subsection (i) and "includes" in subsections (ii), (iii), and (iv). Id. at 1273. The grammatical structure of the statute indicates that "employer" extends to public agencies and their individual supervisors. Id.

As illustrated in Haybarger, which concerned a probation department (a component of a state agency), the court determined that an individual supervisor working for an employer may be liable as an employer under the FMLA. Haybarger, 667 F.3d at 408. This was on the basis that the Department of Labor's regulations in implementing the FMLA confirmed that the FMLA permits individual liability, which includes "anyone who acts directly or indirectly in the interest of a covered employer to any of the employees of the employer, any successor in the interest of a covered employer, and any public agency." 29 C.F.R. 825.104 (a). The term in the regulation "covered employer" refers to public agencies as well. Id. The court reasoned that because the term "employer" includes public agencies, an employer may include individuals, and the FMLA creates a presumption that public agencies engage in commerce, it clearly follows that an individual supervisor at a public agency may be subject to liability. Haybarger, 667 F.3d at 416. The term "employer" can thus extend

liability to supervisors at public agencies.

**B. Individual liability and public agency provisions are not discrete and well-defined, resulting in individual liability extending to public agencies and their supervisors.**

Individual liability extends to public agencies and their supervisors. According to the Fifth Circuit Court, in Modica v. Taylor, Congress did not intend for the provisions concerning public agency employees to be mutually exclusive, indicated by the grammar and plain language of the statute. Modica v. Taylor, 465 F.3d at 174. This is most strongly corroborated by the use of certain language which insinuates a relationship between the first several clauses concerning public agency and individual liability provisions, as well as the parallel structure of the statute. Id. This supports the conclusion that public agency supervisors can be individually liable due to a candid understanding of the term “employer” indicating that individuals at a public agency can qualify as employers if they act directly or indirectly in the employer’s interest. Id. at 184. The inclusion of the word “and” in subparagraph (iii) proposes a relationship that is indicative of individual supervisor liability. Id. at 185. The court further held that the relevant section of the FMLA relieved the burden of proof on plaintiffs, concerning whether or not the public agency engaged in commerce, and stated that, “The most straight forward reading of the text compels the conclusion that a public employee may be held individually liable under the FMLA.” Id. at 186. The court additionally concluded that the definitions of the word “employer” are virtually identical under the FMLA and the Fair Labor Standard Act (“the FLSA”), which has traditionally applied to individual supervisors. Id. at 187.

In contrast, according to the Sixth Circuit case of Mitchell v. Chapman, concerning a USPS employee and his supervisor, the court ruled that the individual supervisor was not liable, because that the FMLA segregates individual liability from the public agency provisions. Mitchell v. Chapman, 343 F.3d at 811. The court determined this on the basis that the FMLA distinguishes its definition of employer from that provided in the FLSA, and further held that combining both the individual liability and the public agency provision would result in rendering other parts of the statute as superfluous because subsection 4(A)(ii)(I) did not include parties other than the employer and thus did not contribute anything to the definition. Id.

However, the court in Modica specifically refuted this, stating that combining the provisions would not be superfluous, as it relieves plaintiffs of the burden of proving that a public agency is engaged in commerce. Modica at 186. In creating broad and overlapping definitions, it is clear that Congress intended for employers' individual liability to extend to supervisors of public agencies.

**Nabilah Nathani**

834 South Miller Street, Chicago, IL 60607 | (469)-360-5675 | nnatha4@illinois.edu

**Writing Sample**

Attached please find a copy of a memorandum, prepared for the purposes of answering a question related to personal property lease tax exemptions in the course of my summer clerkship. The document has been excerpted to include all other elements, save the conclusion, and was lightly edited by a supervisor. The entire document is available upon request.

**MEMORANDUM OF LAW**

TO: Deputy Corporation Counsel, Revenue Litigation Division  
Assistant Corporation Counsel, Revenue Litigation Division

FROM: Nabilah Nathani, Law Clerk, Revenue Litigation Division

DATE: June 17, 2022

RE: Personal Property Lease Transaction Tax Exemptions for Insurance Companies

1. Purpose

The purpose of this memorandum is to analyze the application of City of Chicago (“City” or “the City”) Personal Property Lease Transaction Tax (“PPLT” or “Transaction Tax”) exemptions to insurance companies.

2. Facts

PricewaterhouseCoopers, L.L.P. (“PwC”) requested guidance from the City of Chicago Department of Law (“DOL”), as to the application of the PPLT to insurance companies. PwC sought to resolve a tax exemption dispute between its client, a personal liability insurance company, and a supplier. The supplier had requested an “exemption certificate” from the client, to support the client’s claim of being exempt from the PPLT due to its status as an “insurance company” subject to the Illinois state premiums tax.

3. Issues Presented

- a. Is any insurance company subject to the Illinois state premiums tax eligible to be exempt from the PPLT?
- b. Are there qualifications that an insurance company must satisfy to be exempt from the PPLT?
- c. Does the City offer an “exemption certificate” or any other evidence to verify the status of an insurance company as an exempt purchaser?

4. Brief Answers

- a. Yes. In general, state statute bars home rule units from imposing a tax on an insurance company unless there is a specific statute to the contrary.
- b. It depends. If the insurer meets the definition of an insurance “company” for purposes of the PPLT, no further inquiry is needed. However, if the insurer does not meet the definition of an insurance “company” for purposes of the PPLT, the insurer will not qualify for the PPLT exemption unless other facts are present.
- c. No. Unlike the Internal Revenue Service, in general, the City does not provide a determination letter, exemption certificate or any other documentation to evidence tax-exempt status.

5. Summary of Ordinances and Statutory Provisions

“Home rule” powers are granted to the City pursuant to Article VII, Section 6, of the Illinois Constitution of 1970 (“Illinois Constitution” or “the Illinois Constitution”). Home rule refers to the taxing authority granted by the State of Illinois to certain municipalities to impose taxes not otherwise prohibited by the Illinois Constitution.<sup>1</sup>

The PPLT, found in Chicago Municipal Code (“Code” or “the Code”) § 3-32, is an example of a home rule tax administered by the City. The PPLT applies to businesses or individuals that are either a lessor or lessee of personal property used in Chicago.<sup>2</sup> The tax base, as of January 1, 2021, is nine percent of receipts or charges for all leases. The PPLT differentiates between exempt lessees and exempt leases, rentals, and uses.<sup>3</sup> The classes of exempt lessees are:

1. Lessees that are governmental bodies
2. Charitable, educational, and religious organizations
3. Insurance companies<sup>4</sup>

---

1. In general, to qualify as a home rule unit a municipality must have a population of more than 25,000 persons. ILL. art. VII, CONST. § 6. However, other municipalities may elect to become a home rule unit by referendum. *Id.*

2. CHI., ILL., MUN. CODE § 3-32-030 (2021).

3. *Id.*

4. CHI., ILL., MUN. CODE § 3-32-050 (2021).

The Illinois Insurance Code (“ICC”) is codified at 215 ILCS 5/. There are three primary taxes on insurance premiums found in the ICC. These taxes are as follows:

1. Annual Privilege Tax (215 Ill. Comp. Stat. 5/409 [ICC § 409])
  - a. All insurers are subject to an annual privilege tax based on the net taxable direct premium written reduced by return premiums and dividends as filed in the annual statement.<sup>5</sup> It does not include annuity considerations, premiums on which state premium taxes are prohibited by federal law, premiums paid by the state for health care coverage for Medicaid eligible insureds as described in Section 5-2 of the Illinois Public Aid Code, and premiums for deferred compensation plans for employees of the state, units of local government or school districts. All companies doing insurance business in Illinois, except health, must pay an annual privilege tax of one half of one percent of the net taxable premiums written for the taxable year.<sup>6</sup>
2. Insurance Self-Procurement Tax (215 Ill. Comp. Stat. 5/121-2.08 [ICC § 121-2.08])
  - a. Premiums from insurance independently procured directly from an unauthorized insurer are subject to a one-half of one percent tax, plus up to a one percent fire marshal tax on property premium, depending on specific coverage. There is a notable exception to this tax for “industrial insureds.” To be classified as an industrial insured an insurance company must:
    - i. procure the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant,

5. 215 Ill. Comp. Stat. 5/409 (2022). Note that a “captive” insurance company (i.e., one that is wholly owned and controlled by its insureds) that is organized under the ICC and doing business in the State of Illinois is also subject to the annual privilege tax. 215 ILCS 5/123C-16 (2022).

6. The rate for health premiums is four-tenths of one percent of the net taxable premiums written for the taxable year. *Id.*



- ii. have aggregate annual premiums for insurance on all risks, except for life and accident and health insurance, total at least one hundred thousand dollars, and
  - iii. have either
    - 1. at least twenty-five full time employees,
    - 2. gross assets more than three million dollars., or
    - 3. have annual gross revenues more than five million dollars.<sup>7</sup>
3. Surplus Lines Tax (215 Ill. Comp. Stat. 5/445 [ICC § 445])
- a. Surplus lines insurance is a segment of the insurance market where an insured may obtain coverage from an unadmitted, out-of-state insurer for a risk that traditional or standard insurers are unable or unwilling to insure. Usually, these are unique or extraordinary risks such as a home in a hurricane-prone area, amusement park liability, or pet insurance. A state will permit “unadmitted” insurers (insurers that are not licensed to provide coverage in that state) to provide coverage for certain risks under certain circumstances. In Illinois, surplus lines insurance premiums are subject to a three-and-a-half percent tax, and up to a one percent fire marshal tax, depending on the specific coverage.

Section 415 of the ICC (215 Ill. Comp. Stat. 5/415) limits the power of political subdivisions to tax insurance companies. Section 415 provides in relevant part:

“No taxes to be imposed by political subdivisions. The fees, charges and taxes provided for by this Article shall be in lieu of all license fees or privilege or occupation taxes or other fees levied or assessed by any municipality, county or other political subdivision of this State, and no municipality, county or other political subdivision of this State shall impose any license fee or privilege or occupation tax or fee upon any domestic, foreign or alien company, or upon any of its agents, for the privilege of doing an insurance business herein, except the

---

7. 215 Ill. Comp Stat. 5/121-2.08(a)(iii) refers to an “exempt commercial purchaser.” For purposes of the ICC, the definition of an exempt commercial purchaser can be found in 215 Ill. Comp. Stat. 5/445(1) (2022).

tax authorized by Division 10 of Article 11 of the Illinois Municipal Code, as heretofore and hereafter amended.”<sup>8</sup>

Within the general definitions of the ICC, 215 Ill. Comp. Stat. 5/2(e) (ICC § 2(e)), the term “company” is defined as:

“[A]n insurance or surety company, and includes a corporation, company, partnership, association, society, order individual or aggregation of individuals engaging in order or proposing or attempting to engage in any kind of insurance or surety business, including exchanging reciprocal or inter-insurance contracts between individuals, partnerships, and corporations.”<sup>9</sup>

## 6. Analysis

The correspondence from PwC is vague as to which “premiums tax” its client is referencing. As detailed above, there are multiple taxes the State of Illinois can impose on insurance premiums. Therefore, to answer the questions above, the inquiry must focus on the limits of home rule authority and what the definition of an insurance “company” is for purposes of the PPLT.

### A. Limits on Home Rule Authority

In *Des Plaines Firemen’s Ass’n v. City of Des Plaines*, 267 Ill. App. 3d 920, 642 N.E.2d 732 (1st Dist. 1994) a volunteer fire department an action against the City of Des Plaines, Illinois (“Des Plaines”) seeking a declaratory judgment that Des Plaines was required to pay its fire department money derived from foreign fire tax.

The foreign fire tax, codified at 65 ILCS 5/11–10–1, is part of the Illinois Municipal Code and is unambiguously excepted from the ICC § 415. In its holding, the court noted that, because ICC § 415 is explicit about both the denial and the extent of home rule powers, it must be read with specificity, pursuant to the Illinois Statute on Statutes.<sup>10</sup> Therefore, by diverting funds from the foreign fire tax from their intended recipient, Des Plaines impermissibly expanded its home rule authority, by taxing

8. 215 Ill. Comp. Stat. 5/415 (2022).

9. 215 Ill. Comp. Stat. 5/2(e) (2022).

10. 267 Ill. App. 3d. at 926 (citing 5 Ill. Comp. Stat. 70/7 (1992, 2022)).

insurance company in a manner not consistent with ICC § 415. As a result, Des Plaines must pay its fire department the money derived from the foreign fire tax.

The holding in *Des Plaines Firemen's Ass'n* is notable as it makes clear that ICC § 415 strips home rule units of their power to tax insurance companies, but for rare exceptions such as the foreign fire tax, which are explicitly authorized by Illinois state statute.

In the context of the PPLT, given that home rule units can only tax insurance companies in certain instances, of which the leases taxes are not included, the insurance companies' exemption in the PPLT should be read broadly to allow any insurance company to qualify for the exemption.

#### B. The Definition of Company

Any insurance company is eligible to be exempt from the PPLT. However, not every insurance provider is an insurance company. Therefore, the definition of "company" must be examined to demarcate which insurers qualify for the PPLT exemption.

Courts interpreting Illinois law have consistently interpreted the definition of an insurance company using the language found in ICC § 2(e). For example, in *Rumick v. Liberty Mut. Ins. Co.*, 2018 WL 3740645 (N.D. Ill.), the plaintiff claimed she had paid unnecessarily high premiums for excessive expanded replacement coverage, despite the insurance company's representation that the policy provided tailored protection to each property. The plaintiff brought claims for breach of contract, negligent misrepresentation, and violations of various state consumer protection laws against the insurance company and its parent.

As to the second count of negligent misrepresentation, the defendants asserted that the economic loss doctrine barred the plaintiff's claim. In response, the plaintiff argued that the economic loss doctrine did not bar her claim, because she satisfied an exception to the doctrine, because the defendants owed her an extra-contractual duty under ICC § 2-2201(a), which requires "insurance producers" to use ordinary care in renewing procuring, binding, or placing coverage requested by the insured.<sup>11</sup>

---

11. 2018 WL 3740645 at \*6

In its ruling, the court held that ICC § 2-2201(a) applies only to insurance producers. In doing so, the court clarified the difference between insurance producers and “insurers.” Specifically, the court stated that the term producer is best defined by ICC § 500-10, which in turn expresses that an insurance producer is a “person required to be licensed under the laws of Illinois to sell, solicit, or negotiate insurance.”<sup>12</sup> In contrast, an “insurer,” would be more akin to a “company” under ICC § 5/2(e).<sup>13</sup>

The court held that the defendants did not qualify as insurance producers, based on the distinguishing terms. However, the court noted that since the plaintiff alleged, she had purchased her policy from an insurance producer who was acting as an agent for the defendants, the defendants could potentially be liable under the tort doctrine of *respondeat superior*.<sup>14</sup>

Another matter in which the distinction between terms became critical was in *Phillips v. WellPoint Inc.*, 2012 WL 6111405 (S.D. Ill.). In *Phillips*, the plaintiffs were insureds of the defendant, who had withdrawn from the Illinois market, forcing plaintiffs to convert to more expensive policies under the defendant’s parent company. The court considered whether defendants were entitled to judgment as a matter of law with respect to breach of contract and unfair practice claims. The breach of contract claim turned on the distinction between a “health insurance issuer” under the Illinois adoption of HIPAA, 215 Ill. Comp. Stat. 97/5, and an insurance “company” under the definition found in ICC § 2(e).<sup>15</sup> Under the portion of Illinois HIPAA applicable at the time, the term “health insurance issuer” meant an insurance “company, insurance service, or insurance organization.”<sup>16</sup> The court held that because these two statutes fell under Illinois laws addressing the topic of insurance, it was appropriate to read them together to provide a harmonious effect and determine the intent of the state’s legislature.

Similarly, in *Prudential Insurance Co. v. Chicago*, 66 Ill. 2d 437 (1977), the plaintiffs were insurance companies conducting business in Illinois who asked from an exemption from the Chicago Employers’ Expense Tax Ordinance, which requires every employer with fifteen or more full-time employees within the City to pay a tax of three dollar per

12. *Id.*

13. *Id.*

14. *Id.* The plaintiff’s negligent misrepresentation claim ultimately failed, because she did not sufficiently allege the elements the claim, specifically, a false statement of material fact.

15. 2012 WL 6111405 at \*7

16. *Id.*

month, per employee. The circuit court permanently enjoined the City from collecting this tax from the plaintiffs, holding that they were exempted from paying the tax under ICC § 2.1, which reads in pertinent part:

“Provided further that the fees, charges and taxes provided for by this Act shall, as provided for in Section 415 of this Act, be in lieu of all license fees or privilege or occupation taxes or other fees levied or assessed by any home rule unit and said Section 415 of this Act is declared to be a denial and limitation of the powers of home rule units pursuant to paragraph (g) of Section 6 of Article VII of the Illinois Constitution of 1970.”<sup>17</sup>

The court stated that section 2.1 was intended to prevent home rule units, from imposing any license fees or privilege or occupation taxes on insurance companies, while also relying on the language of ICC § 5/415.

The City argued against this reading, claiming that in enacting ICC § 2.1, the General Assembly intended only to prohibit home rule units from imposing fees, taxes, or charges which involved the “insurance business.” The court countered this, stating that the language of ICC § 2.1 stating “in lieu of all license fees or privilege or occupation taxes or other fees,” was identical with the clear language of the first clause of ICC § 415.

Holding companies and subsidiaries are different circumstances, however. With regards to the former, a portion of the ICC is dedicated to insurance holding company systems. The definitions from this particular section for the terms “company” and “insurance holding company system” are as follows:

(a-15) “Company” has the same meaning as “company” as defined in Section 2 of this Code, except that it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(c) “Insurance holding company system” means two or more affiliated persons, one or more of which is an insurance company as defined in paragraph (e) of Section 2 of this Code.<sup>18</sup>

17. 215 Ill. Comp. Stat. 5/2.1 (2022).

18. 215 ILCS 5/131.1.

These definitions suggest the “company” itself does not necessarily include holding companies. As for whether a holding company is an agent of the insurance companies, that could be a question of agency law, which would require more facts to determine if the holding company is acting on behalf of the insurance companies. In the context of a holding company simply operating and controlling the insurance company with a non-possessory lease used solely by the insurance company, these sections could be used to support an exemption extension to the holding company as well. Concerning the latter issue (that of the subsidiary), based on the plain language of ICC § 415, its application is limited only to insurance companies and their agents. A subsidiary is not an insurance company, and it is unclear whether it would qualify as an agent. It is possible that the use of the term “agent” in ICC § 415 would be more limited than general agency law and would refer to insurance agents, but if the legislature wanted include any entity affiliated with an insurance company, a more comprehensive list could have been used. To validate the status of an insurance company as an exempt purchaser, the City does not offer an exemption certificate. The insurance company should keep records to indicate that they did not collect tax from the customer. Examples of this could include a certificate of incorporation from the jurisdiction in which the company is incorporated or organized, or a letter from the company representing that it is an insurance company that’s exempt under the ICC § 415.

#### C. Certificates Provided by the City of Chicago

At the federal level, upon granting tax-exempt status to an organization, the Internal Revenue Service (“IRS”) will issue a determination letter to evidence its exempt status. Further, upon, the IRS will add an organization’s name to the searchable Exempt Organizations Business Master File abstract. Further, if a taxpayer is eligible to receive tax-deductible charitable contributions, this will be substantiated via the IRS’ online Tax-Exempt Organization Search tool. However, the City does not provide a determination letter, exemption certificate or any other documentation, online or otherwise, to evidence tax-exempt status except in limited circumstances that do not apply in this situation.

**Applicant Details**

First Name **Alexander**  
Last Name **Newman**  
Citizenship Status **U. S. Citizen**  
Email Address [alexandern42@gmail.com](mailto:alexandern42@gmail.com)  
Address

**Address**

Street  
**5509 S Hyde Park Blvd**  
City  
**Chicago**  
State/Territory  
**Illinois**  
Zip  
**60637**  
Country  
**United States**

Contact Phone Number **3017879669**

**Applicant Education**

BA/BS From **Washington University in St. Louis**  
Date of BA/BS **May 2020**  
JD/LLB From **The University of Chicago Law School**  
<https://www.law.uchicago.edu/>  
Date of JD/LLB **June 1, 2024**  
Class Rank **School does not rank**  
Law Review/Journal **Yes**  
Journal(s) **The University of Chicago Legal Forum**  
Moot Court Experience **No**

**Bar Admission****Prior Judicial Experience**

Judicial Internships/  
Externships **No**

Post-graduate Judicial Law Clerk      **No**

**Specialized Work Experience**

**Recommenders**

Strauss, David  
d-strauss@uchicago.edu

Konsky, Sarah  
konsky@uchicago.edu  
773-834-3190

Masur, Jonathan  
jmasur@uchicago.edu  
773-702-5188

**This applicant has certified that all data entered in this profile and any application documents are true and correct.**



**Alexander Newman**

5509 S. Hyde Park Blvd. | Chicago, IL 60637  
alexnewman@uchicago.edu | 301-787-9669

June 12, 2023

The Honorable Jamar K. Walker  
United States District Court for the Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am a rising third-year law student at the University of Chicago Law School, and I am applying for a clerkship in your chambers for the 2024 term. Having grown up and previously worked in the Washington area, I have a particular interest in returning to the region to clerk.

A resume, law school transcript, and writing sample are enclosed. Letters of recommendation from Professors Konsky, Masur, and Strauss will arrive under separate cover. Should you require additional information, please do not hesitate to let me know. Thank you for your consideration.

Respectfully,

  
Alexander Newman

## Alexander Newman

5509 S. Hyde Park Blvd., Apt. 2S, Chicago, IL 60637 • alexnewman@uchicago.edu • 301-787-9669

### EDUCATION:

#### **The University of Chicago Law School, Chicago, IL**

Juris Doctor Candidate, June 2024

- **Journal:** *The University of Chicago Legal Forum*, Staff Member
- **Comment:** *Knock and Talks: Faithfully Applying Social Norms to Prevent Unconstitutional Police Intrusion upon the Home*, to be published in Vol. 2023
- **Activities:** Law Students for the Creative Arts, Hemingway Society

#### **Washington University in St. Louis, St. Louis, MO**

Bachelor of Arts with College Honors in Political Science and Art History, May 2020

- **Honors:** Dean's List, four semesters
- **Awards:** Murphy Family Prize for Best Essay in Art History, Art History and Archaeology Award for Excellence in Mentorship
- **Activities:** Washington University Political Review

### EXPERIENCE:

#### **Sullivan & Cromwell LLP, New York, NY**

Summer Associate, June – August 2023

#### **Jenner & Block Supreme Court and Appellate Clinic, Chicago, IL**

Summer Intern, June – August 2022

- Helped draft a merits brief for the Supreme Court case *Haaland v. Brackeen*
- Drafted amicus briefs for *Perez v. Sturgis Public Schools* and *Pugin v. Garland*
- Reviewed circuit splits in preparation for petitions for certiorari

#### **Democracy Summer PAC, Silver Spring, MD**

Senior Fellow, May – August 2021

- Worked as a campaign fellow for Congressman Jamie Raskin's Leadership PAC
- Helped run a program training interns for over a dozen members of Congress
- Trained over 400 interns on basics of campaign organizing and fundraising

#### **Washington University Department of Political Science, St. Louis, MO**

Assistant in Instruction, *Quantitative Political Methodology*, August – December 2019

- Mentored students on topics of research design and statistical methods
- Instructed students on coding techniques using the programming language R

#### **Washington University Learning Center, St. Louis, MO**

Academic Mentor in *Art History*, August 2019 – May 2020

- Mentored students in weekly meetings on essay writing

#### **Ben Jealous for Governor, Silver Spring, MD**

Assistant to the Political Director, June – August 2018

- Contacted over 120 members of the Maryland House of Delegates, State Senate, and Baltimore City Council to organize political support and press events
- Assisted in creating the candidate's daily schedule

### INTERESTS:

Solving the crossword every day, film photography, hiking in national parks



Name: Alexander Isaac Newman  
Student ID: 12109000

University of Chicago Law School

Academic Program History

Program: Law School  
Start Quarter: Autumn 2021  
Current Status: Active in Program  
J.D. in Law

External Education

Washington University in St. Louis  
Saint Louis, Missouri  
Bachelor of Arts 2020

Beginning of Law School Record

		Autumn 2021		
Course	Description	Attempted	Earned	Grade
LAWS 30101	Elements of the Law Lior Strahilevitz	3	3	176
LAWS 30211	Civil Procedure Emily Buss	4	4	181
LAWS 30611	Torts Adam Chilton	4	4	180
LAWS 30711	Legal Research and Writing Alison Gocke	1	1	179
		Winter 2022		
Course	Description	Attempted	Earned	Grade
LAWS 30311	Criminal Law Jonathan Masur	4	4	179
LAWS 30411	Property Aziz Huq	4	4	177
LAWS 30511	Contracts Douglas Baird	4	4	178
LAWS 30711	Legal Research and Writing Alison Gocke	1	1	179

Spring 2022

Course	Description	Attempted	Earned	Grade
LAWS 30712	Legal Research, Writing, and Advocacy Alison Gocke	2	2	178
LAWS 30713	Transactional Lawyering Joan Neal	3	3	179
LAWS 44201	Legislation and Statutory Interpretation Ryan Doerfler	3	3	182
LAWS 47201	Criminal Procedure I: The Investigative Process John Rappaport	3	3	177
LAWS 47411	Jurisprudence I: Theories of Law and Adjudication Brian Leiter	3	3	177

Summer 2022

Honors/Awards  
The University of Chicago Legal Forum, Staff Member 2022-23

Autumn 2022

Course	Description	Attempted	Earned	Grade
LAWS 50311	U.S. Supreme Court: Theory and Practice Meets Writing Project Requirement Designation: Sarah Konsky Michael Scodro	3	3	181
LAWS 53219	Counterintelligence and Covert Action - Legal and Policy Issues Stephen Cowen Tony Garcia	3	3	177
LAWS 53299	Class Action Controversies Michael Brody	2	2	180
LAWS 90219	Jenner & Block Supreme Court and Appellate Clinic Sarah Konsky David A Strauss	1	0	
LAWS 94120	The University of Chicago Legal Forum Anthony Casey	1	1	P

Winter 2023

Course	Description	Attempted	Earned	Grade
LAWS 40101	Constitutional Law I: Governmental Structure David A Strauss	3	3	179
LAWS 45701	Trademarks and Unfair Competition Omri Ben-Shahar	3	3	179
LAWS 46101	Administrative Law David A Strauss	3	3	177
LAWS 90219	Jenner & Block Supreme Court and Appellate Clinic Sarah Konsky David A Strauss	1	0	
LAWS 94120	The University of Chicago Legal Forum Anthony Casey	1	1	P



Name: Alexander Isaac Newman  
Student ID: 12109000

## University of Chicago Law School

		Spring 2023			
Course	Description	Attempted	Earned	Grade	
LAWS 43218	Public Choice and Law Saul Levmore	3	3	176	
LAWS 43244	Patent Law Jonathan Masur	3	3	182	
LAWS 47101	Constitutional Law VII: Parent, Child, and State Emily Buss	3	3	181	
LAWS 90219	Jenner & Block Supreme Court and Appellate Clinic Sarah Konsky David A Strauss	1	0		
LAWS 94120	The University of Chicago Legal Forum Anthony Casey	1	1	P	

End of University of Chicago Law School

## OFFICIAL ACADEMIC DOCUMENT



### Key to Transcripts of Academic Records

**1. Accreditation:** The University of Chicago is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools. For information regarding accreditation, approval or licensure from individual academic programs, visit <http://csl.uchicago.edu/policies/disclosures>.

**2. Calendar & Status:** The University calendar is on the quarter system. Full-time quarterly registration in the College is for three or four units and in the divisions and schools for three units. For exceptions, see 7 Doctoral Residence Status.

**3. Course Information:** Generally, courses numbered from 10000 to 29999 are courses designed to meet requirements for baccalaureate degrees. Courses with numbers beginning with 30000 and above meet requirements for higher degrees.

**4. Credits:** The Unit is the measure of credit at the University of Chicago. One full Unit (100) is equivalent to 3 1/3 semester hours or 5 quarter hours. Courses of greater or lesser value (150, 050) carry proportionately more or fewer semester or quarter hours of credit. See 8 for Law School measure of credit.

### 5. Grading Systems:

#### Quality Grades

Grade	College & Graduate	Business	Law
A+	4.0	4.33	
A	4.0	4.0	186-180
A-	3.7	3.67	
B+	3.3	3.33	
B	3.0	3.0	179-174
B-	2.7	2.67	
C+	2.3	2.33	
C	2.0	2.0	173-168
C-	1.7	1.67	
D+	1.3	1.33	
D	1	1	167-160
F	0	0	159-155

#### Non-Quality Grades

- I **Incomplete:** Not yet submitted all evidence for final grade. Where the mark I is changed to a quality grade, the change is reflected by a quality grade following the mark I, (e.g. IA or IB).
- IP **Pass (non-Law):** Mark of I changed to P (Pass). See 8 for Law IP notation.
- NGR **No Grade Reported:** No final grade submitted
- P **Pass:** Sufficient evidence to receive a passing grade. May be the only grade given in some courses.
- Q **Query:** No final grade submitted (College only)
- R **Registered:** Registered to audit the course
- S **Satisfactory**
- U **Unsatisfactory**
- UW **Unofficial Withdrawal**
- W **Withdrawal:** Does not affect GPA calculation
- WP **Withdrawal Passing:** Does not affect GPA calculation
- WF **Withdrawal Failing:** Does not affect GPA calculation
- Blank:** If no grade is reported after a course, none was available at the time the transcript was prepared.

#### Examination Grades

- H Honors Quality
- P\* High Pass
- P Pass

**Grade Point Average:** Cumulative G.P.A. is calculated by dividing total quality points earned by quality hours attempted. For details visit the Office of the University Registrar website: <http://registrar.uchicago.edu>.

**6. Academic Status and Program of Study:** The quarterly entries on students' records include academic statuses and programs of study. The Program of Study in which students are enrolled is listed along with the quarter they commenced enrollment at the beginning of the transcript or chronologically by quarter. The definition of academic statuses follows:

**7. Doctoral Residence Status:** Effective Summer 2016, the academic records of students in programs leading to the degree of Doctor of Philosophy reflect a single doctoral registration status referred to by the year of study (e.g. D01, D02, D03). Students entering a PhD program Summer 2016 or later will be subject to a

University-wide 9-year limit on registration. Students who entered a PhD program prior to Summer 2016 will continue to be allowed to register for up to 12 years from matriculation.

**Scholastic Residence:** the first two years of study beyond the baccalaureate degree. (Revised Summer 2000 to include the first four years of doctoral study. Discontinued Summer 2016)

**Research Residence:** the third and fourth years of doctoral study beyond the baccalaureate degree. (Discontinued Summer 2000.)

**Advanced Residence:** the period of registration following completion of Scholastic and Research Residence until the Doctor of Philosophy is awarded. (Revised in Summer 2000 to be limited to 10 years following admission for the School of Social Service Administration doctoral program and 12 years following admission to all other doctoral programs. Discontinued Summer 2016.)

**Active File Status:** a student in Advanced Residence status who makes no use of University facilities other than the Library may be placed in an Active File with the University. (Discontinued Summer 2000.)

**Doctoral Leave of Absence:** the period during which a student suspends work toward the Ph.D. and expects to resume work following a maximum of one academic year.

**Extended Residence:** the period following the conclusion of Advanced Residence. (Discontinued Summer 2013.)

Doctoral students are considered full-time students except when enrolled in Active File or Extended Residence status, or when permitted to complete the Doctoral Residence requirement on a half-time basis.

Students whose doctoral research requires residence away from the University register *Pro Forma*. *Pro Forma* registration does not exempt a student from any other residence requirements but suspends the requirement for the period of the absence. Time enrolled *Pro Forma* does not extend the maximum year limit on registration.

**8. Law School Transcript Key:** The credit hour is the measure of credit at the Law School. University courses of 100 Units not taught through the Law School are comparable to 3 credit hours at the Law School, unless otherwise specified.

The frequency of honors in a typical graduating class:

Highest Honors (182+)
0.5%
High Honors (180.5+)(pre-2002 180+)
7.2%
Honors (179+)(pre-2002 178+)
22.7%

Pass/Fail and letter grades are awarded primarily for non-law courses. Non-law grades are not calculated into the law GPA.

P\*\* indicates that a student has successfully completed the course but technical difficulties, not attributable to the student, interfered with the grading process.

IP (In Progress) indicates that a grade was not available at the time the transcript was printed.

\* next to a course title indicates fulfillment of one of two substantial writing requirements. (Discontinued for Spring 2011 graduating class.)

See 5 for Law School grading system.

**9. FERPA Re-Disclosure Notice:** In accordance with U.S.C. 438(6)(4)(8)(The Family Educational Rights and Privacy Act of 1974) you are hereby notified that this information is provided upon the condition that you, your agents or employees, will not permit any other party access to this record without consent of the student.

Office of the University Registrar  
University of Chicago  
1427 E. 60<sup>th</sup> Street  
Chicago, IL 60637  
773.702.7891

For an online version including updates to this information, visit the Office of the University Registrar website: <http://registrar.uchicago.edu>.

Revised 09/2016

Washington University Unofficial Transcript for: **Alexander Newman**

Student ID Number: 450781

Student Record data as of: 7/20/2020 3:11:33 PM

**HOLDS** - no records of this type found

# DEGREES AWARDED

SECOND MAJOR IN ART HISTORY AND ARCHAEOLOGY  
A.B. MAJOR IN POLITICAL SCIENCE

May 15, 2020

May 15, 2020

# MAJOR PROGRAMS

Admitted	Terminated	Status	Code	Prime or Joint	Program
SP2019	SP2020	Completed	LA01S1	Joint	SECOND MAJOR IN ART HISTORY AND ARCHAEOLOGY
FL2018	SP2020	Completed	LA3201	Prime	A.B. MAJOR IN POLITICAL SCIENCE
FL2016	SP2018	Closed	LA0001	Prime	A.B. UNDECLARED MAJOR
SP2018	FL2018	Closed	LA4101	Prime	A.B. MAJOR IN BIOLOGY

# ADVISORS

Advisor	Advisor Type	Start Dt	End Dt	Program	Email
John Klein	Faculty Advisor	11/21/2019	5/14/2020	LA01S1 SECOND MAJOR IN ART HISTORY AND ARCHAEOLOGY	<a href="mailto:jklein@WUSTL.EDU">jklein@WUSTL.EDU</a>
Nathaniel Jones	Faculty Advisor	4/8/2019	11/21/2019	LA01S1 SECOND MAJOR IN ART HISTORY AND ARCHAEOLOGY	<a href="mailto:nbjones@wustl.edu">nbjones@wustl.edu</a>
Clarissa R. Hayward	Faculty Advisor	9/12/2018	5/14/2020	LA3201 A.B. MAJOR IN POLITICAL SCIENCE	<a href="mailto:chayward@wustl.edu">chayward@wustl.edu</a>
Richard D. Vierstra	Faculty Advisor	2/1/2018	9/12/2018	LA4101 A.B. MAJOR IN BIOLOGY	<a href="mailto:rdvierstra@wustl.edu">rdvierstra@wustl.edu</a>
James G. McDonald	SFS Counselor	11/1/2017	5/14/2020		<a href="mailto:JAMES_MCDONALD@WUSTL.EDU">JAMES_MCDONALD@WUSTL.EDU</a>
Nicole Svobodny	A&S Four Year Advisor	6/15/2016	5/14/2020		<a href="mailto:svobodny@wustl.edu">svobodny@wustl.edu</a>

# SEMESTER COURSEWORK AND ACADEMIC ACTION

Note: Courses dropped with a status of 'D' will not appear on your transcript.

Courses dropped with a status of 'W' will appear on your transcript.

## FL2016

-----Grade-----										
Department	Course	Sec	Units	Opt	Mid	Final	Dean	Dropped	WaitListed	Title
L07 Chem	111A	03	3.0		C	B				General Chemistry I
L07 Chem	111A	X	0.0							General Chemistry I
L07 Chem	151	01	2.0	C	A	B+				General Chemistry Laboratory I
L07 Chem	151	F	0.0							General Chemistry Laboratory I
L16 Comp Lit	211	01	3.0	C		A				World Literature
L18 URST	163	01	3.0	C		A				Freedom, Citizenship, and the Making of American Culture
L18 URST	163	C	0.0							Freedom, Citizenship, and the Making of American Culture
L24 Math	233	01	3.0	C	A-	A-				Calculus III
Enrolled Units: 14.0			Semester GPA: 3.69		Cumulative Units: 29.0		Cumulative GPA: 3.69			
HON 0001 DEAN'S LIST										
								Transcript: Yes Expires 12/31/2999		

## SP2017

-----Grade-----										
Department	Course	Sec	Units	Opt	Mid	Final	Dean	Dropped	WaitListed	Title
L07 Chem	112A	01	3.0	C	A	B				General Chemistry II
L07 Chem	112A	U	0.0							General Chemistry II
L07 Chem	152	02	2.0	C	A	B+				General Chemistry Laboratory II
L07 Chem	152	F	0.0							General Chemistry Laboratory II
L32 Pol Sci	106	01	3.0	C		A-				Introduction to Political Theory
L41 BIOL	2651	01	1.0	P		CR#				MedPrep I - The Lecture Series
L41 BIOL	2960	01	4.0	C	B	B				Principles of Biology I
L41 BIOL	2960	Z	0.0							Principles of Biology I
L41 BIOL	2961	01	1.0	P		CR#				Collaborative Phage Bioinformatics
L59 CWP	100	35	3.0	C	A-	A				College Writing 1
Enrolled Units: 17.0			Semester GPA: 3.38		Cumulative Units: 46.0			Cumulative GPA: 3.53		
MSN 8102 SPRING WRITING PLACEMENT, Approved to enroll in Writing 1										
MSN 8110 WRITING 1 REQUIREMENT STATUS, Satisfied										
Transcript: No										Expires 12/31/2999
Transcript: No										Expires 12/31/2999

## FL2017

Department	Course	Sec	Units	Opt	Mid	Final	Dean	Dropped	WaitListed	Title
L01 Art-Arch	113	01	3.0	C		A				History of Western Art, Architecture & Design
L01 Art-Arch	113	E	0.0							History of Western Art, Architecture & Design
L07 Chem	261	01	4.0	C		B				Organic Chemistry I With Lab
L07 Chem	261	C	0.0							Organic Chemistry I With Lab
L32 Pol Sci	101B	01	3.0	C		A				American Politics
L32 Pol Sci	101B	B	0.0							American Politics
L38 Span	101	02	3.0	C	A	A				Elementary Spanish 1
L41 BIOL	200	25	1.0	P		CR#				Introduction to Research
L41 BIOL	2970	02	4.0	C		B				Principles of Biology II
L41 BIOL	2970	D	0.0							Principles of Biology II
Enrolled Units: 18.0			Semester GPA: 3.53		Cumulative Units: 64.0		Cumulative GPA: 3.53			

## SP2018

-----Grade-----										
Department	Course	Sec	Units	Opt	Mid	Final	Dean	Dropped	WaitListed	Title
L01 Art-Arch	215	01	3.0	C	A	A				Introduction to Modern Art, Architecture and Design
L01 Art-Arch	215	I	0.0							Introduction to Modern Art, Architecture and Design
L01 Art-Arch	3815	01	3.0	C		A				Rococo to Revolution: Art in Eighteenth-Century Europe
L07 Chem	262	01	4.0	C		W		W 0306		Organic Chemistry II with Lab
L07 Chem	262	F	0.0			W		W 0306		Organic Chemistry II with Lab
L32 Pol Sci	362	01	3.0	C		A				Politics and the Theory of Games
L32 Pol Sci	362	B	0.0							Politics and the Theory of Games
L38 Span	102	03	3.0	C	A	A				Elementary Spanish 2
L41 BIOL	334	01	3.0	C		B+				Cell Biology
Enrolled Units: 15.0			Semester GPA: 3.86		Cumulative Units: 79.0		Cumulative GPA: 3.61			
HON 0001 DEAN'S LIST										
								Transcript: Yes Expires 12/31/2999		

FL2018

-----Grade-----											
Department	Course	Sec	Units	Opt	Mid	Final	Dean	Dropped	WaitListed	Title	
L01 Art-Arch	3001	16	3.0	C	A					Writing Intensive Topics: Renaissance and Baroque Architecture	
L01 Art-Arch	3783	01	3.0	C	A					The Modernist Project: Art in Europe and the United States, 1905-1980	
L32 Pol Sci	3017	01	3.0	C	A					It's U.S. Against Them	
L32 Pol Sci	3171	01	3.0	C	A					Topics: Conflict and Security in International Relations	
L32 Pol Sci	363	01	3.0	C	A+					Quantitative Political Methodology	
L32 Pol Sci	363	D	0.0							Quantitative Political Methodology	
L38 Span	201E	08	3.0	C	A-	A				Intermediate Spanish I	
Enrolled Units: 18.0			Semester GPA: 4.00			Cumulative Units: 97.0			Cumulative GPA: 3.70		
HON 0001 DEAN'S LIST											
								Transcript: Yes		Expires 12/31/2999	

SP2019

-----Grade-----											
Department	Course	Sec	Units	Opt	Mid	Final	Dean	Dropped	WaitListed	Title	
L01 Art-Arch	3785	01	3.0	C		A				Photography in America	
L01 Art-Arch	4860	01	3.0	C		A				Van Gogh: Creativity, Mythology, and Commodity	
L32 Pol Sci	378	01	3.0	C		A				Topics in IR: U.S. Law and Foreign Relations	
L32 Pol Sci	398	01	3.0	C		A+				Topics: Electoral Politics and Challenges to Democratic Accountability in the Developing World	
L32 Pol Sci	4043	01	3.0	C		A				Public Policy Analysis, Assessment and Practical Wisdom	
L38 Span	202	01	3.0	C	A	A				Intermediate Spanish II	
Enrolled Units: 18.0			Semester GPA: 4.00			Cumulative Units: 115.0			Cumulative GPA: 3.75		
HON 0001 DEAN'S LIST											
Transcript: Yes Expires 12/31/2999											

FL2019

-----Grade-----											
Department	Course	Sec	Units	Opt	Mid	Final	Dean	Dropped	WaitListed	Title	
L01 Art-Arch	4624	01	3.0	C		A				Michelangelo	
L32 Pol Sci	3507	01	3.0	C		A				Legal Conflict in Modern American Society	
L32 Pol Sci	419	09	3.0	C		A+				Teaching Practicum in Political Science	
L38 Span	307D	08	3.0	P	CR	CR				Grammar and Composition I	
L43 GeSt	275	05	1.0	P		CR#				Seminar in Academic Mentoring	
			Enrolled Units: 13.0	Semester GPA: 4.00			Cumulative Units: 128.0			Cumulative GPA: 3.78	

SP2020

-----Grade-----											
Department	Course	Sec	Units	Opt	Mid	Final	Dean	Dropped	WaitListed	Title	
L01 Art-Arch	111	01	3.0	C	B+	A				Introduction to Asian Art	
L01 Art-Arch	111	B	0.0							Introduction to Asian Art	
L01 Art-Arch	361	01	3.0	P		CR				Art of Early Italian Renaissance	
L01 Art-Arch	3892	01	3.0	C		A				MODERN SCULPTURE: CANOVA TO KOONS	
L01 Art-Arch	4918	01	3.0	C		A				Modern War in Art	
L32 Pol Sci	330	01	3.0	C		A				Topics in Politics: Terrorism & Counterterrorism	
L32 Pol Sci	4625	01	3.0	C		A				Topics in Politics: Political Data Science	
Enrolled Units: 18.0			Semester GPA: 4.00			Cumulative Units: 146.0			Cumulative GPA: 3.80		
MSN 0023	SPECIAL NOTE:, During the spring of 2020, a global pandemic required significant changes to coursework. Unusual enrollment patterns and grades may reflect the tumult of the time.								Transcript: Yes	Expires 12/31/2999	
MSN 0042	POLITICAL SCIENCE SUBFIELD CONCENTRATION:, American Politics; Political Methodology								Transcript: Yes	Expires 12/31/2999	
MSN 1012	SPECIAL NOTE:, Given the COVID-19 disruption, Dean's List was not awarded during spring 2020.								Transcript: Yes	Expires 12/31/2999	
HON 0039	COLLEGE HONORS IN A&S								Transcript: Yes	Expires 12/31/2999	
HON 0513	MURPHY FAMILY PRIZE FOR AN OUTSTANDING ESSAY IN ART HISTORY AND ARCHAEOLOGY								Transcript: Yes	Expires 12/31/2999	
HON 0807	ART HISTORY & ARCHAEOLOGY AWARD FOR EXCELLENCE IN MENTORSHIP								Transcript: Yes	Expires 12/31/2999	

OTHER CREDITS

Semester	Dept	Course	SIS Title	Type	Units	-----Units-----	AP Design	Topics	Code	Dean	Req. Met	Art Sci	Comments
FL2016	E81	131	Computer Science I		0.00	3.00							Advanced Placement
School:				Other Title:				Original Grade:					
FL2016	L07	103	Advanced Placement Chemistry I		0.00	3.00							Advanced Placement
School:				Other Title:				Original Grade:					
FL2016	L13	0001	ENGLISH COMPOSITION ELECTIVE		0.00	3.00							Advanced Placement
School:				Other Title:				Original Grade:					
FL2016	L22	164	Introduction to World History: The Second World War in World History		0.00	3.00							Advanced Placement
School:				Other Title:				Original Grade:					
FL2016	L24	131	Calculus I		0.00	3.00							Advanced Placement
School:				Other Title:				Original Grade:					
FL2016	L24	132	Calculus II		0.00	3.00							Advanced Placement
School:				Other Title:				Original Grade:					
FL2016	L24	2200	Elementary Probability and Statistics		0.00	3.00							Advanced Placement
School:				Other Title:				Original Grade:					
SP2018	L32	0001	POLITICAL SCIENCE ELECTIVE		0.00	3.00							Advanced Placement
School:				Other Title:				Original Grade:					
FL2016	L41	100A	An Introduction to Biology		0.00	6.00							Advanced Placement
School:				Other Title:				Original Grade:					
FL2016	L43	9999	Total Credit Granted By Prematriculation Units		15.00								
School:				Other Title:				Original Grade:					

GPA SUMMARY

Semester	Cr. Att.	Cr. Earn	P/F Att.	P/F Earn	Trans.	Grade Pts.	Cr. Att.	Cr. Earn	P/F Att.	P/F Earn	Trans.	Level	Units	Sem.	Cum.	Level
FL2016	14.0	14.0	0.0	0.0	15.0	51.6	14.0	14.0	0.0	0.0	15.0	29.0	3.69	3.69	2	
SP2017	15.0	15.0	2.0	2.0	0.0	102.3	29.0	29.0	2.0	2.0	15.0	46.0	3.38	3.53	4	
FL2017	17.0	17.0	1.0	1.0	0.0	162.3	46.0	46.0	3.0	3.0	15.0	64.0	3.53	3.53	5	
SP2018	15.0	15.0	0.0	0.0	0.0	220.2	61.0	61.0	3.0	3.0	15.0	79.0	3.86	3.61	6	
FL2018	18.0	18.0	0.0	0.0	0.0	292.2	79.0	79.0	3.0	3.0	15.0	97.0	4.00	3.70	7	
SP2019	18.0	18.0	0.0	0.0	0.0	364.2	97.0	97.0	3.0	3.0	15.0	115.0	4.00	3.75	8	

FL2019	9.0	9.0	4.0	4.0	0.0	400.2	106.0	106.0	7.0	7.0	15.0	128.0	4.00	3.78	8
SP2020	15.0	15.0	3.0	3.0	0.0	460.2	121.0	121.0	10.0	10.0	15.0	146.0	4.00	3.80	8

#### ENROLLMENT STATUS

Semester	Start	End	Enrollment Status	Level	Units	Status Change Date
FL2016	8/29/2016	12/21/2016	Full-Time Student	2	14.0	
SP2017	1/17/2017	5/10/2017	Full-Time Student	4	17.0	
FL2017	8/28/2017	12/20/2017	Full-Time Student	4	18.0	
SP2018	1/16/2018	5/9/2018	Full-Time Student	5	15.0	
FL2018	8/27/2018	12/19/2018	Full-Time Student	6	18.0	
SP2019	1/14/2019	5/8/2019	Full-Time Student	7	18.0	
FL2019	8/26/2019	12/18/2019	Full-Time Student	8	13.0	
SP2020	1/13/2020	5/6/2020	Full-Time Student	8	18.0	

#### DEMOGRAPHICS

<b>Birthdate:</b> 5/15/1998	<b>Race:</b> 6 - White (Non-Hispanic Origin)	<b>Semester of Entry:</b> FL2016
<b>Birth Place:</b> Chicago IL		<b>Entry Status:</b> F
<b>Date of Death:</b>	<b>Hispanic:</b> N	<b>Anticipated Deg Dt:</b> 2020
	<b>American Indian:</b> N	<b>Std Expt Graduation:</b>
<b>Gender:</b> M	<b>Asian:</b> N	<b>Frozen Cohort:</b> FR2020LA
<b>Marital Status:</b>	<b>Black:</b> N	
<b>Veteran Code:</b>	<b>Hawaiian Pacific:</b> N	<b>Faculty/Staff Child:</b>
<b>Locale:</b> 0	<b>White:</b> Y	<b>Alumni Code:</b>
<b>U.S. Citizen:</b> Y	<b>Not Reported:</b> N	<b>Prof. School1:</b>
<b>Country:</b> USA		<b>Prof. School2:</b>
<b>Visa Type:</b>		<b>Area of Interest:</b>
<b>Nonresident Alien:</b> N		<b>Area of Interest Code:</b> 00

#### ADMINISTRATIVE CODES

Type	Value
Personal Email Address	alexandern42@gmail.com

#### HIGH SCHOOL

Name	Code	GPA	Weight	Class Size	Class Rank
Montgomery Blair High School	210965	4.61			

**PREVIOUS SCHOOLS** - no records of this type found

**UNIVERSITY EMAIL ADDRESS:** newmana@wustl.edu

**FORWARDS TO:** newmana@email.wustl.edu



Professor David A. Strauss  
Gerald Ratner Distinguished Service Professor of Law  
The University of Chicago Law School  
1111 E. 60th Street  
Chicago, IL 60637  
d-strauss@uchicago.edu | 773-702-9601

June 22, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

Alex Newman, who just finished his second year here, is a smart, thoughtful, well-rounded person, and he would be an excellent law clerk. I recommend him enthusiastically.

I've had the chance to see Alex in several different settings. I first encountered him in the summer after his first year of law school. I am the faculty director of our Supreme Court and Appellate Clinic, and we take on two students for the summer after their first year. We get a lot of excellent applicants, but Alex stood out; we thought he would be first-rate, and he was. Alex continued in the Clinic, taking it as a class during his second year, and he continued to do work at a high level. Then I was fortunate enough to have him in two regular classes, Administrative Law and the Constitutional Law class that covers federalism and separation of powers. In Administrative Law he was very solid; in Constitutional Law he was even better than that, in the top fifteen percent of a very strong class.

Let me mention two matters in particular. In the summer after Alex's first year, our clinic was co-counsel on the brief for the Indian Tribes who were defendants in *Haaland v. Brackeen*, No. 21-376, the case about the Indian Child Welfare Act that the Supreme Court recently decided (in our clients' favor). Our brief addressed a series of complicated issues that are not covered anywhere in the first year curriculum, and several experienced Supreme Court advocates were involved in drafting it. So there was no reason to think that someone like Alex, who had just finished his first year in law school, could contribute very much. But Alex made substantial contributions. He took the initiative on some important research; he asked probing questions about the arguments we were making; he saw connections among the cases we were working with; and he made specific suggestions that ended up playing a role in the brief we filed.

In the constitutional law class, Alex picked up where he left off. I remember specifically his analysis, on the exam and also in class discussion, of complicated questions about the so-called Anti-Commandeering doctrine (which was of course also a central issue in *Brackeen*). Students, understandably, often have a difficult time with that doctrine. But Alex was completely on top of it; it was, again, the kind of performance I had no right to expect from a student.

Alex is also a friendly, well-liked, and interesting person. In college, he was a double major in political science and art history, and by his own account he is a Chicago architecture buff; he takes his friends on architecture tours of the city. He has pursued his political interests as well, working for a member of Congress and on a gubernatorial campaign. He has both first-rate analytical ability and a good practical sense of how to work with people. He will be a terrific law clerk in all respects, and I am very happy to recommend him.

Sincerely,

David Strauss

David Strauss - d-strauss@uchicago.edu

Sarah M. Konsky  
Director, Jenner & Block Supreme Court  
and Appellate Clinic  
Associate Clinical Professor of Law  
1111 East 60th Street | Chicago, Illinois 60637  
phone 773-834-3190 | fax 773-702-2063  
e-mail konsky@uchicago.edu

June 12, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

Alex Newman, who just finished his 2L year at the Law School, has applied to you for a clerkship. Alex is great, and I'm happy to have the opportunity to recommend him.

I've taught Alex in a few different settings at the Law School. I'm the Director of the Law School's Supreme Court and Appellate Clinic, which represents clients in appellate cases. Alex worked full-time in our clinic as a summer associate during his 1L summer. He then took the clinic for course credit throughout his 2L year. I also taught Alex in a separate seminar course, U.S. Supreme Court: Theory and Practice. He did excellent work both in the clinic and seminar.

Alex was a strong clinic summer associate and continues to be a strong clinic student. He is bright, curious, and insightful. During his time in the clinic, he's researched complex legal issues, drafted sections of Supreme Court briefs, and helped formulate case strategies and arguments. His projects have spanned a wide range of challenging topics, including difficult constitutional and statutory interpretation questions. Alex did great legal research and analysis. Alex also is a very good writer – his written work product is clear and effective. (He's not yet received a grade for his clinic work, since he plans to enroll in the clinic again next school year.)

Alex did terrific work in the United States Supreme Court: Theory and Practice seminar course during the fall quarter of his 2L year, too. He earned a 181 in the seminar – an "A" grade on our Law School's strict grading curve. His graded work in this seminar included a mock Supreme Court brief and a mock Supreme Court oral argument. Alex excelled on these projects. His brief was well-written and persuasive. He identified smart arguments for his side, and then turned them into an effective and compelling brief. Alex's oral argument similarly was outstanding. His presentation was thoughtful and persuasive. He demonstrated both great preparation and a great ability to think on his feet.

I've appreciated having the chance to get to know Alex. He's been a good colleague in the clinic. He seems to work well with his peers and in groups. He also seems to be personable, likable, and unassuming. His contributions to our small-group and class discussions have been helpful.

Alex seems to be an interesting person (in a good way), too. I've enjoyed getting to talk to him about his hobbies. At our first lunch together, we had a fascinating discussion about his interest in film photography and slide film. He collects old cameras and photography equipment – he reports that his collection includes a camera that's more than 100 years old, as well as a Kodak Carousel projector from the 1960s. He explains that he likes the constraints and challenges of taking photographs with older cameras and equipment. Alex has a range of other neat interests. In undergraduate, he majored in both political science and art history. He explains that he's particularly interested in renaissance and modern architecture – and that he's become a Chicago architecture buff. His other hobbies include watching films (with a focus on older and foreign films), hiking, and camping. I believe Alex would be a strong law clerk, and I'm glad to have the opportunity to recommend him.  
Sincerely,

Sarah M. Konsky  
Director, Jenner & Block Supreme Court and Appellate Clinic  
Associate Clinical Professor of Law

Sarah Konsky - konsky@uchicago.edu - 773-834-3190

Professor Jonathan Masur  
John P. Wilson Professor of Law  
The University of Chicago Law School  
1111 E. 60th Street  
Chicago, IL 60637  
jmasur@uchicago.edu | 773-702-5188

June 12, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to offer a very strong recommendation of Alexander (Alex) Newman for a judicial clerkship. Alex is extremely intelligent, unfailing diligent, and a talented legal writer. He is the type of lawyer who can be trusted with even the most complicated matters and counted upon to deliver great work when it counts. I am certain that he will be an excellent law clerk.

I first met Alex when he enrolled in my 1L Criminal Law class. My first academic interaction with him was when he raised his hand early in the course to offer a brilliant response to a question that had stumped nearly everyone else. This type of performance continued throughout the quarter, during which he demonstrated over and over again that he was among the best students in the class. I often asked the students to play the roles of the attorneys in the cases we read, re-arguing the facts and the law on behalf of the state and the defendant. Alex excelled in those roles. Almost without fail, he was able to craft arguments and theories that were far more compelling and thoughtful than the points raised by the parties themselves. In addition, I frequently asked the students to defend positions with which they disagreed. This increases the degree of difficulty, as well as replicating one of the most important skills a lawyer (or law clerk) must develop. Here, especially, Alex performed superbly. He could be counted upon to offer insightful and innovative approaches to difficult legal questions, at times when other students might too easily succumb to emotional or ideological tendencies to the contrary. He finished the class by writing an excellent exam and receiving a high grade.

Alex then enrolled in my Patent Law course this past spring, and his work was no less impressive. Patent Law is frequently a difficult subject for students, such as Alex, who have no scientific or technical background. Indeed, many 2Ls have never taken a course that is as enmeshed in complicated federal statutes as patent law. Accordingly, I expect second-year students to struggle to some degree when they enroll. But Alex most certainly did not. From the very first day of class, when I called on him to discuss declaratory judgment practice and its relevance to patent law, he was at the top of his game. He deftly handled multiple cold-calls throughout the year, including a particularly devilish set of questions about the “known or used by others” standard for patent novelty. Moreover, he asked great questions during class, often exploring important areas of doctrine that I had neglected to mention or had described in only cursory fashion. Alex’s success in Patent Law demonstrated two things about him as a student and a legal thinker. First, he was unafraid to dive into new subjects, even topics that were remote from everything else he had previously studied. Second, through hard work and tremendous analytic intelligence, he was capable of learning this new material and analyzing it successfully within a short span of time. Both of these skills will serve him incredibly well as a law clerk.

Alex’s performance in Patent Law exceeded even his impressive work in Criminal Law. He finished the quarter by writing a terrific exam, one of the very best in the class, and earning a high A. The exam was notable in particular for its expert parsing of a complex federal patent statute and the statute’s application to an intricate fact pattern. It was also well-written and a pleasure to read—smooth and concise, with elegant prose and no wasted words. Almost needless to say, that is rare among timed law school exams! On the basis of this exam, I am confident that he is poised to excel in a federal clerkship.

Alex has excelled outside of the classroom as well. He was selected for membership on the University of Chicago Legal Forum (one of our most prominent journals) and holds leadership positions in a number of other student organizations as well. It is no surprise that his fellow students have entrusted him in these roles. He is unfailingly humble, as well as friendly and generous with his time. He is also even-keeled under even the most stressful conditions, never getting too high or too low. He will be well-liked in chambers by everyone who gets to know him.

Alex Newman is a terrific thinker, a talented writer, and a diligent and hard-working student. He has a great legal career in front of him, and in the more immediate term he will be a success in any chambers fortunate enough to hire him. I recommend him strongly.

Sincerely,

Jonathan Masur  
John P. Wilson Professor of Law

Jonathan Masur - jmasur@uchicago.edu - 773-702-5188

**Alexander Newman**

5509 S. Hyde Park Blvd., Apt. 2S, Chicago, IL 60637 • alexnewman@uchicago.edu • 301-787-9669

---

**Writing Sample**

The attached writing sample is an excerpt from the initial draft of my comment for my journal, *The University of Chicago Legal Forum*. My comment was selected for publication. This sample is my own work and was not edited by any other person. The sample begins by describing a key Supreme Court decision that discusses police “knock and talks.” The sample then analyzes multiple circuit splits concerning the constitutionality of various police practices during knock and talks. The knock and talk is a police technique involving an officer knocking on the door of a home in order to speak with an occupant. Police may perform a knock and talk without obtaining a warrant. To create an eight-page writing sample, I omitted introductory sections as well as proposed rules that resolve the circuit split in a manner consistent with the Supreme Court’s knock and talk jurisprudence.